

_____ offers the following
substitute to HB 386:

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 2, 40, 44, and 48 of the Official Code of Georgia Annotated, relating to
2 agriculture, motor vehicles, property, and revenue and taxation, respectively, so as to provide
3 for the comprehensive revision of taxation of motor vehicles; to change certain provisions
4 regarding tag agents; to provide for state and local title ad valorem tax fees as alternative ad
5 valorem taxes; to provide for definitions; to provide for continuation of tag, revalidation, and
6 registration fees; to provide for distribution of such state and local title ad valorem tax fees;
7 to exclude certain vehicles from certain fees; to change certain provisions regarding
8 classification of motor vehicles as a separate class of property for ad valorem tax purposes;
9 to provide for an exemption from sales and use taxes only with respect to certain sales or
10 purchases of certain motor vehicles; to provide for certain reports; to provide for certain
11 penalties and sanctions; to provide for a study committee to review and report on such state
12 and local title ad valorem tax fees; to change the personal exemption for married taxpayers
13 filing an income tax return; to revise certain provisions regarding the exclusion of retirement
14 income from taxable net income; to revise provisions relating to tax credits available to
15 qualified donors of property for conservation purposes; to provide a maximum tax credit
16 amount; to provide for additional requirements for donated conservation easements; to
17 provide for certification procedures; to modify transferability of tax credits; to change certain
18 provisions relating to the exemptions from sales and use tax for film producers and film
19 production companies; to provide for revision of taxation of machinery and energy used in
20 manufacturing and agriculture; to provide for the repeal of certain exemptions from state
21 sales and use tax; to provide for a new exemption regarding the sale and use of machinery
22 or equipment which is necessary and integral to the manufacture of tangible personal
23 property and the sale, use, storage, or consumption of energy, industrial materials, or
24 packaging supplies; to provide for definitions; to provide for procedures, conditions, and
25 limitations; to provide for an exemption for sales to, or use by, a qualified agriculture
26 producer of agricultural production inputs, energy used in agriculture, and agricultural
27 machinery and equipment; to provide for definitions; to provide for procedures, conditions,
28 and limitations; to provide for powers, duties, and authority of the Commissioner of

Agriculture; to provide for a local excise tax on energy used in manufacturing; to provide for a new exemption for construction materials used in competitive projects of regional significance for a limited period of time; to modify the exemption for jet fuel; to revise the definition of dealer in order to expand the limits of nexus with this state for purposes of collecting state sales and use tax; to provide for sales tax exemptions for certain items on specified dates; to provide for related matters; to provide for effective dates; to provide for applicability; to provide that existing prosecutions shall not abate; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by revising Code Section 40-2-23, relating to county tax collectors and county tax commissioners' designation as tax agents, as follows:

"40-2-23.

(a) The tax collectors of the various counties of this state and the tax commissioners of those counties in which the duties of the tax collector are performed by a tax commissioner shall be designated as tag agents of the commissioner for the purpose of accepting applications for the registration of vehicles. The commissioner is authorized to promulgate rules and regulations for the purpose of delegating to such tag agents the custodial responsibility for properly receiving, processing, issuing, and storing motor vehicle titles or registrations, or both.

~~(b) The state revenue commissioner is authorized to further designate each such tag agent as a sales tax agent for the purpose of collecting sales and use tax with respect to the casual sale or casual use of a motor vehicle. For purposes of this Code section, 'casual sale' or 'casual use' means the sale of a motor vehicle by a person who is not regularly or systematically engaged in making retail sales of motor vehicles and the first use, consumption, distribution, or storage for use or consumption of such motor vehicle purchased through a casual sale. As personal compensation for services rendered to the Department of Revenue with respect to the collection of such sales and use tax, each such designated tag agent shall be authorized to retain from such collection a fee of \$200.00 per month. In any month in which an insufficient amount of such tax is collected to pay such fee, the amount of any such unpaid fee may be deferred until such month as sufficient collections are made. Such compensation shall be in addition to any other compensation to which such tax collector or tax commissioner is entitled.~~

(c)(b) The duties and responsibilities of agents of the commissioner designated under this Code section shall be a part of the official duties and responsibilities of the county tax collectors and tax commissioners."

SECTION 1-2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-5-441, relating to classification of motor vehicles and mobile homes as separate classes of tangible property for ad valorem tax purposes, as follows:

"48-5-441.

(a)(1) For the purposes of ad valorem taxation, motor vehicles ~~are~~ shall be classified as a separate and distinct class of tangible property. Such class of tangible property shall be divided into two distinct and separate subclasses of tangible property with one subclass including heavy-duty equipment motor vehicles as defined in Code Section 48-5-505 and the other subclass including all other motor vehicles. The procedures prescribed by this article for returning motor vehicles, excluding heavy-duty equipment motor vehicles as defined in Code Section 48-5-505, for taxation, determining the applicable rates for taxation, and collecting the ad valorem tax imposed on motor vehicles shall be exclusive.

(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1.

(b) For the purposes of ad valorem taxation, mobile homes ~~are~~ shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for returning mobile homes for taxation, determining the applicable rates for taxation, and collecting the ad valorem tax imposed on mobile homes shall be exclusive.

(c)(1) For the purposes of ad valorem taxation, commercial vehicles ~~are~~ shall be classified as a separate and distinct class of tangible property. The procedures prescribed by this article for returning commercial vehicles for taxation and for determining the valuation of commercial vehicles shall be exclusive and as provided for in Code Section 48-5-442.1. All other procedures prescribed by this article for the taxation of motor vehicles shall be applicable to the taxation of commercial vehicles.

(2) This subsection shall not apply to motor vehicles subject to Code Section 48-5-441.1."

SECTION 1-3.

Said title is further amended by adding a new Code section to read as follows:

"48-5-441.1.

In accordance with Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution, motor vehicles subject to the provisions of Code Section 48-5B-1 shall be classified as a separate and distinct class of tangible property for the purposes of ad valorem taxation."

SECTION 1-4.

Said title is further amended by adding a new chapter to read as follows:

"CHAPTER 5B

48-5B-1.

(a) As used in this Code section, the term:

(1) 'Fair market value of the motor vehicle' means:

(A) The average of the current fair market value and the current wholesale value of a motor vehicle for a vehicle listed in the current motor vehicle ad valorem assessment manual utilized by the state revenue commissioner in determining taxable value of a motor vehicle under Code Section 48-5-442;

(B) For a used motor vehicle which is not so listed in such current motor vehicle ad valorem assessment manual, the value from the bill of sale or the value from a reputable used car market guide designated by the commissioner, whichever is greater; or

(C) The fair market value determined by the state revenue commissioner from the bill of sale of a new motor vehicle for which there is no value under subparagraph (A) of this paragraph, less any rebate and before any reduction for the trade-in value of another motor vehicle.

(2) 'Immediate family member' means spouse, parent, child, sibling, grandparent, or grandchild.

(3) 'Loaner vehicle' means a motor vehicle owned by a dealer which is withdrawn temporarily from dealer inventory for exclusive use as a courtesy vehicle loaned at no charge for a period not to exceed 30 days within a calendar year to any one customer whose motor vehicle is being serviced by such dealer.

(4) 'Rental charge' means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease, including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales and use taxes.

(5) 'Rental motor vehicle' means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver.

(6) 'Rental motor vehicle concern' means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

(7) 'Trade-in value' means the value of the motor vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.

(b)(1)(A) Except as otherwise provided in this subsection, any motor vehicle for which a title is issued in this state on or after March 1, 2013, shall be exempt from sales and use taxes to the extent provided under paragraph (92) of Code Section 48-8-3 and shall not be subject to the ad valorem tax as otherwise required under Chapter 5 of Title 48. Any such motor vehicle shall be titled as otherwise required under Title 40 but shall be subject to a state title fee and a local title fee which shall be alternative ad valorem taxes as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(B)(i) As used in this subparagraph, the term:

(II) 'Local base amount' means \$1 billion.

(II) 'Local current collection amount' means the total amount of motor vehicle local ad valorem tax proceeds collected under this Code section and Chapter 5 of this title during the calendar year which immediately precedes the tax year in which the title ad valorem tax adjustments are required to be made under this subparagraph.

(III) 'Local target collection amount' means an amount equal to the local base amount added to the product of 2 percent of the local base amount multiplied by the number of years since 2012 with a maximum amount of \$1.2 billion.

(IV) 'State base amount' means \$535 million.

(V) 'State current collection amount' means the total amount of motor vehicle state ad valorem tax proceeds collected under this Code section and Chapter 5 of this title during the calendar year which immediately precedes the tax year in which the state and local title ad valorem tax rate is to be reviewed for adjustment under division (xiv) of this subparagraph. Notwithstanding the other provisions of this subdivision to the contrary, the term 'state current collection amount' for the 2014 calendar year for the purposes of the 2015 review under division (xiv) of this subparagraph shall be adjusted so that such amount is equal to the amount of motor vehicle state ad valorem tax proceeds that would have been collected under this Code section in 2014 if the combined state and local title ad valorem tax rate was 7 percent of the fair market value of the motor vehicle less any trade-in value plus

the total amount of motor vehicle state ad valorem tax proceeds collected under Chapter 5 of this title during 2014.

(VI) 'State target collection amount' means an amount equal to the state base amount added to the product of 2 percent of the state base amount multiplied by the number of years since 2012.

(ii) The combined state and local title ad valorem tax shall be at a rate equal to:

(I) For the period commencing March 1, 2013, through December 31, 2013, 6.5 percent of the fair market value of the motor vehicle less any trade-in value;

(II) For the 2014 tax year, 6.75 percent of the fair market value of the motor vehicle less any trade-in value; and

(III) Except as provided in division (xiv) of this subparagraph, for the 2015 and subsequent tax years, 7 percent of the fair market value of the motor vehicle less any trade-in value.

(iii) For the period commencing March 1, 2013, through December 31, 2013, the state title ad valorem tax shall be at a rate equal to 57 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 43 percent of the tax rate specified in division (ii) of this subparagraph.

(iv) For the 2014 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(v) For the 2015 tax year, the state title ad valorem tax shall be at a rate equal to 55 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 45 percent of the tax rate specified in division (ii) of this subparagraph.

(vi) For the 2016 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 53.5 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 46.5 percent of the tax rate specified in division (ii) of this subparagraph.

(vii) For the 2017 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 44 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 56 percent of the tax rate specified in division (ii) of this subparagraph.

(viii) For the 2018 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 40 percent of the

tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 60 percent of the tax rate specified in division (ii) of this subparagraph.

(ix) For the 2019 tax year, except as otherwise provided in divisions (xiii) and (xiv) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 36 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 64 percent of the tax rate specified in division (ii) of this subparagraph.

(x) For the 2020 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 34 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 66 percent of the tax rate specified in division (ii) of this subparagraph.

(xi) For the 2021 tax year, except as otherwise provided in division (xiii) of this subparagraph, the state title ad valorem tax shall be at a rate equal to 30 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 70 percent of the tax rate specified in division (ii) of this subparagraph.

(xii) For the 2022 and all subsequent tax years, except as otherwise provided in division (xiii) of this subparagraph for tax years 2022, 2023, and 2024 and except as otherwise provided in division (xiv) of this subparagraph for tax year 2023, the state title ad valorem tax shall be at a rate equal to 28 percent of the tax rate specified in division (ii) of this subparagraph, and the local title ad valorem tax shall be at a rate equal to 72 percent of the tax rate specified in division (ii) of this subparagraph.

(xiii) Beginning in 2016, by not later than January 15 of each tax year through the 2022 tax year, the state revenue commissioner shall determine the local target collection amount and the local current collection amount for the preceding calendar year. If such local current collection amount is equal to or within 1 percent of the local target collection amount, then the state title ad valorem tax rate and the local title ad valorem tax rate for such tax year shall remain at the rate specified in this subparagraph for that year. If the local current collection amount is more than 1 percent greater than the local target collection amount, then the local title ad valorem tax rate for such tax year shall be reduced automatically by operation of this division by such percentage amount as may be necessary so that, if such rate had been in effect for the calendar year under review, the local current collection amount would have produced an amount equal to the local target collection amount, and the state title ad valorem tax rate for such tax year shall be increased by an equal amount to maintain

the combined state and local title ad valorem tax rate at the rate specified in
 division (ii) of this subparagraph. If the local current collection amount is more than
 1 percent less than the local target collection amount, then the local title ad valorem
 tax rate for such tax year shall be increased automatically by operation of this division
 by such percentage amount as may be necessary so that, if such rate had been in effect
 for the calendar year under review, the local current collection amount would have
 produced an amount equal to the local target collection amount, and the state title ad
 valorem tax rate for such tax year shall be reduced by an equal amount to maintain the
 combined state and local title ad valorem tax rate at the rate specified in division (ii)
 of this subparagraph. In the event of an adjustment of such ad valorem tax rates, by
 not later than January 31 of such tax year, the state revenue commissioner shall notify
 the tax commissioner of each county in this state of the adjusted rate amounts. The
 effective date of such adjusted rate amounts shall be January 1 of such tax year.

(xiv) In tax years 2015, 2018, and 2022, by not later than July 1 of each such tax
 year, the state revenue commissioner shall determine the state target collection
 amount and the state current collection amount for the preceding calendar year. If
 such state current collection amount is greater than, equal to, or within 1 percent of
 the state target collection amount after making the adjustment, if any, required in
 division (xiii) of this subparagraph, then the combined state and local title ad valorem
 tax rate provided in division (ii) of this subparagraph shall remain at the rate specified
 in such division. If the state current collection amount is more than 1 percent less
 than the state target collection amount after making the adjustment, if any, required
 by division (xiii) of this subparagraph, then the combined state and local title ad
 valorem tax rate provided in division (ii) of this subparagraph shall be increased
 automatically by operation of this division by such percentage amount as may be
 necessary so that, if such rate had been in effect for the calendar year under review,
 the state current collection amount would have produced an amount equal to the state
 target collection amount, and the state title ad valorem tax rate and the local title ad
 valorem tax rate for the tax year in which such increase in the combined state and
 local title ad valorem tax rate shall become effective shall be adjusted from the rates
 specified in this subparagraph or division (xiii) of this subparagraph for such tax year
 such that the proceeds from such increase in the combined state and local title ad
 valorem tax rate shall be allocated in full to the state. In the event of an adjustment
 of the combined state and local title ad valorem tax rate, by not later than August 31
 of such tax year, the state revenue commissioner shall notify the tax commissioner of
 each county in this state of the adjusted combined state and local title ad valorem tax
 rate for the next calendar year. The effective date of such adjusted combined state

and local title ad valorem tax rate shall be January 1 of the next calendar year.
 Notwithstanding the provisions of this division, the combined state and local title ad
 valorem tax rate shall not exceed 9 percent.

(xv) The state revenue commissioner shall promulgate such rules and regulations as
 may be necessary and appropriate to implement and administer this Code section,
 including, but not limited to, rules and regulations regarding appropriate public
 notification of any changes in rate amounts and the effective date of such changes and
 rules and regulations regarding appropriate enforcement and compliance procedures
 and methods for the implementation and operation of this Code section.

(C) The application for title and the state and local title ad valorem tax fees provided
 for in subparagraph (A) of this paragraph shall be paid to the tag agent in the county in
 which the purchaser registers such motor vehicle and shall be paid at the time the
 purchaser applies for a title and registers such motor vehicle. A dealer of new or used
 motor vehicles may accept such application for title and state and local title ad valorem
 tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of
 delivering such title application and state and local title ad valorem tax fees to the
 county tag agent to obtain a tag and title for the purchaser of such motor vehicle.

(D) There shall be a penalty imposed on any person who, in the determination of the
 commissioner, falsifies any information in any bill of sale used for purposes of
 determining the fair market value of the motor vehicle. Such penalty shall not exceed
 \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as
 determined by the commissioner. Such determination shall be made within 60 days of
 the commissioner receiving information of a possible violation of this paragraph.

(E) A dealer of new or used motor vehicles that accepts an application for title and
 state and local title ad valorem tax fees from a purchaser of a new or used motor vehicle
 and does not transmit such application for title and state and local title ad valorem tax
 fees to the county tag agent within 10 days following the date of purchase shall be
 liable to the county tag agent for an amount equal to 5 percent of the amount of such
 state and local title ad valorem tax fees. An additional 5 percent penalty shall be
 imposed for each subsequent month the payment is not transmitted.

(F) A dealer of new or used motor vehicles that accepts an application for title and state
 and local title ad valorem tax fees from a purchaser of a new or used motor vehicle and
 converts such fees to his or her own use shall be guilty of theft by conversion and, upon
 conviction, shall be punished as provided in Code Section 16-8-12.

(2) A person or entity acquiring a salvage title pursuant to subsection (b) of Code
 Section 40-3-36 shall not be subject to the fee specified in paragraph (1) of this
 subsection but shall be subject to a state title ad valorem tax fee in an amount equal to 1

percent of the fair market value of the motor vehicle. Such state title ad valorem tax fee shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(c)(1) The amount of proceeds collected by tag agents each month as state and local title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest pursuant to subsection (b) of this Code section shall be allocated and disbursed as provided in this subsection.

(2) For the 2013 tax year and in each subsequent tax year, the amount of such funds shall be disbursed within 30 days following the end of each calendar month as follows:

(A) State title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest shall be remitted to the state revenue commissioner who shall deposit such proceeds in the general fund of the state less an amount to be retained by the tag agent not to exceed 1 percent of the total amount otherwise required to be remitted under this subparagraph to defray the cost of administration. Such retained amount shall be remitted to the collecting county's general fund. Failure by the tag agent to disburse within such 30 day period shall result in a forfeiture of such administrative fee plus interest on such amount at the rate specified in Code Section 48-2-40; and

(B) Local title ad valorem tax fees, administrative fees, penalties, and interest shall be designated as local government ad valorem tax funds. The tag agent shall then distribute the proceeds as specified in paragraph (3) of this subsection.

(3) The local title ad valorem tax fee proceeds required under this subsection shall be distributed as follows:

(A) The tag agent of the county shall within 30 days following the end of each calendar month allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county an amount of those proceeds necessary to offset any reduction in ad valorem tax on motor vehicles collected under Chapter 5 of Title 48 in the taxing jurisdiction of each governing authority and school district from the amount of ad valorem taxes on motor vehicles collected under Chapter 5 of Title 48 in each such governing authority and school district during the same calendar month of 2012. This reduction shall be calculated by subtracting the amount of ad valorem tax on motor vehicles collected under Chapter 5 of Title 48 in each such taxing jurisdiction from the amount of ad valorem tax on motor vehicles collected under Chapter 5 of Title 48 in that taxing jurisdiction in the same calendar month of 2012. In the event that the local title ad valorem tax fee proceeds are insufficient to fully offset such reduction in ad valorem taxes on motor vehicles, the tag

agent shall allocate a proportionate amount of the proceeds to each governing authority and to the board of education of each such school district, and any remaining shortfall shall be paid from the following month's local title ad valorem tax fee proceeds. In the event that a shortfall remains, the tag agent shall continue to first allocate local title ad valorem tax fee proceeds to offset such shortfalls until the shortfall has been fully repaid; and

(B) Of the proceeds remaining following the allocation and distribution under subparagraph (A) of this paragraph, the tag agent shall allocate and distribute to the county governing authority and to municipal governing authorities, the board of education of the county school district, and the board of education of any independent school district located in such county the remaining amount of those proceeds in the manner provided in this subparagraph. Such proceeds shall be deposited in the general fund of such governing authority or board of education and shall not be subject to any use or expenditure requirements provided for under any of the following described local sales and use taxes but shall be authorized to be expended in the same manner as authorized for the ad valorem tax revenues on motor vehicles under Chapter 5 of Title 48 which would otherwise have been collected for such governing authority or board of education. Of such remaining proceeds:

(i) An amount equal to one-third of such proceeds shall be distributed to the board of education of the county school district and the board of education of each independent school district located in such county in the same manner as required for any local sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of Chapter 8 of Title 48 currently in effect. If such tax is not currently in effect, such proceeds shall be distributed to such board or boards of education in the same manner as if such tax were in effect;

(ii)(I) Except as otherwise provided in this division, an amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect.

(II) If such tax were never in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(III) If such tax is currently in effect as well as a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment, an

amount equal to one-third of such proceeds shall be distributed in the same manner as required under subdivision (I) of this division and an amount equal to one-third of such proceeds shall be distributed to the board of education of the county school district.

(IV) If such tax is not currently in effect and a local option sales and use tax for educational purposes levied pursuant to a local constitutional amendment is currently in effect, such proceeds shall be distributed to the board of education of the county school district and the board of education of any independent school district in the same manner as required under that local constitutional amendment.

(V) If such tax is not currently in effect and a homestead option sales and use tax under Article 2A of Chapter 8 of Title 48 is in effect, such proceeds shall be distributed to the governing authority of the county, each qualified municipality, and each existing municipality in the same proportion as otherwise required under Code Section 48-8-104; and

(iii)(I) An amount equal to one-third of such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as specified under an intergovernmental agreement or as otherwise required under the county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 currently in effect; provided, however, that this subdivision shall not apply if subdivision (III) of division (ii) of this subparagraph is applicable.

(II) If such tax were in effect but expired and is not currently in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county in the same manner as if such tax were still in effect according to the intergovernmental agreement or as otherwise required under the county special purpose local sales and use tax under Part 1 of Article 3 of Chapter 8 of Title 48 for the 12 month period commencing at the expiration of such tax. If such tax is not renewed prior to the expiration of such 12 month period, such amount shall be distributed in accordance with subdivision (I) of division (ii) of this subparagraph; provided, however, that if a tax under Article 2 of Chapter 8 of Title 48 is not in effect, such amount shall be distributed in accordance with subdivision (II) of division (ii) of this subparagraph.

(III) If such tax is not currently in effect in a county in which a tax is levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment, such proceeds

shall be distributed to the governing body of the authority created by local Act to operate such metropolitan area system of public transportation.

(IV) If such tax were never in effect, such proceeds shall be distributed in the same manner as specified under the distribution certificate for the joint county and municipal sales and use tax under Article 2 of Chapter 8 of Title 48 currently in effect; provided, however, that if such tax under such article is not in effect, such proceeds shall be distributed to the governing authority of the county and the governing authority of each qualified municipality located in such county on a pro rata basis according to the ratio of the population that each such municipality bears to the population of the entire county.

(d)(1)(A) Upon the death of an owner of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of Title 48 and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the death of an owner of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members of such owner who receive such motor vehicle pursuant to a will or under the rules of inheritance shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(2)(A) Upon the transfer from an immediate family member of a motor vehicle which has not become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member or immediate family members who receive such motor vehicle shall, subsequent to the transfer of title of such motor vehicle, continue to be subject to ad valorem tax under Chapter 5 of Title 48 and shall not be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section unless the immediate family member or immediate family

members make an affirmative written election to become subject to paragraph (1) of subsection (b) of this Code section. In the event of such election, such transfer shall be subject to the state and local title ad valorem tax fees provided for in paragraph (1) of subsection (b) of this Code section.

(B) Upon the transfer from an immediate family member of a motor vehicle which has become subject to paragraph (1) of subsection (b) of this Code section, the immediate family member who receives such motor vehicle shall transfer title of such motor vehicle to such recipient family member and shall be subject to a state title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle and a local title ad valorem tax fee in an amount equal to one-quarter of 1 percent of the fair market value of the motor vehicle. Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(C) Any title transfer under this paragraph shall be accompanied by an affidavit of the transferor and transferee that such persons are immediate family members to one another. There shall be a penalty imposed on any person who, in the determination of the state revenue commissioner, falsifies any material information in such affidavit. Such penalty shall not exceed \$2,500.00 as a state penalty and shall not exceed \$2,500.00 as a local penalty as determined by the state revenue commissioner. Such determination shall be made within 60 days of the state revenue commissioner receiving information of a possible violation of this paragraph.

(3) Any individual who:

(A) Is required by law to register a motor vehicle or motor vehicles in this state which were registered in the state in which such person formerly resided; and

(B) Is required to file an application for a certificate of title under Code Section 40-3-21 or 40-3-32

shall only be required to pay state and local title ad valorem tax fees in the amount of 50 percent of the amount which would otherwise be due and payable under this subsection at the time of filing the application for a certificate of title, and the remaining 50 percent shall be paid within 12 months.

(4) The state and local title ad valorem tax fees provided for under this Code section shall not apply to corrected titles, replacement titles under Code Section 40-3-31, or titles reissued to the same owner pursuant to Code Sections 40-3-50 through 40-3-56.

(5) Any motor vehicle subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section shall continue to be subject to the title, license plate, revalidation decal, and registration requirements and applicable fees as otherwise provided in Title 40 in the same manner as motor vehicles which are not

subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(6) Motor vehicles owned or leased by or to the state or any county, consolidated government, municipality, county or independent school district, or other government entity in this state shall not be subject to the state and local title ad valorem tax fees provided for under paragraph (1) of subsection (b) of this Code section; provided, however, that such other government entity shall not qualify for the exclusion under this paragraph unless it is exempt from ad valorem tax and sales and use tax pursuant to general law.

(7)(A) Any motor vehicle which is exempt from sales and use tax pursuant to paragraph (30) of Code Section 48-8-3 shall be exempt from state and local title ad valorem tax fees under this subsection.

(B) Any motor vehicle which is exempt from ad valorem taxation pursuant to Code Section 48-5-478, 48-5-478.1, 48-5-478.2, or 48-5-478.3 shall be exempt from state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section.

(8) There shall be a penalty imposed on the transfer of all or any part of the interest in a business entity that includes primarily as an asset of such business entity one or more motor vehicles, when, in the determination of the state revenue commissioner, such transfer is done to evade the payment of state and local title ad valorem tax fees under this subsection. Such penalty shall not exceed \$2,500.00 as a state penalty per motor vehicle and shall not exceed \$2,500.00 as a local penalty per motor vehicle, as determined by the state revenue commissioner, plus the amount of the state and local title ad valorem tax fees. Such determination shall be made within 60 days of the state revenue commissioner receiving information that a transfer may be in violation of this paragraph.

(9) Any owner of any motor vehicle who fails to submit within 30 days of the date such owner is required by law to register such vehicle in this state an application for a first certificate of title under Code Section 40-3-21 or a certificate of title under Code Section 40-3-32 shall be required to pay a penalty in the amount of 10 percent of the state title ad valorem tax fees and 10 percent of the local title ad valorem tax fees required under this Code section, plus interest at the rate of 1.0 percent per month, unless a temporary permit has been issued by the tax commissioner. The tax commissioner shall grant a temporary permit in the event the failure to timely apply for a first certificate of title is due to the failure of a lienholder to comply with Code Section 40-3-56, regarding release of a security interest or lien, and no penalty or interest shall be assessed. Such penalty and interest shall be in addition to the penalty and fee required under Code

Section 40-3-21 or 40-3-32, as applicable. A new or used motor vehicle dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under this paragraph and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of this paragraph.

(10) The owner of any motor vehicle purchased in this state for which a title was issued in this state on or after January 1, 2012, and prior to March 1, 2013, shall be authorized to opt in to the provisions of this subsection at any time prior to January 1, 2014, upon compliance with the following requirements:

(A)(i) The total amount of state and local title ad valorem tax fees which would be due from March 1, 2013, to December 31, 2013, if such vehicle had been titled in 2013 shall be determined; and

(ii) The total amount of state and local sales and use tax and state and local ad valorem tax under Chapter 5 of Title 48 which were due and paid in 2012 for that motor vehicle and, if applicable, the total amount of such taxes which were due and paid for that motor vehicle in 2013 shall be determined; and

(B)(i) If the amount derived under division (i) of subparagraph (A) of this paragraph is greater than the amount derived under division (ii) subparagraph (A) of this paragraph, the owner shall remit the difference to the tag agent. Such remittance shall be deemed local title ad valorem tax fee proceeds; or

(ii) If the amount derived under division (i) of subparagraph (A) of this paragraph is less than the amount derived under division (ii) of subparagraph (A) of this paragraph, no additional amount shall be due and payable by the owner.

Upon certification by the tag agent of compliance with the requirements of this paragraph, such motor vehicle shall not be subject to ad valorem tax as otherwise required under Chapter 5 of Title 48 in the same manner as otherwise provided in paragraph (1) of subsection (b) of this Code section.

(11)(A) In the case of rental motor vehicles owned by a rental motor vehicle concern, the state title ad valorem tax fee shall be in an amount equal to .75 percent of the fair market value of the motor vehicle, and the local title ad valorem tax fee shall be in an amount equal to .75 percent of the fair market value of the motor vehicle, but only if in the immediately prior calendar year the average amount of sales and use tax attributable to the rental charge of each such rental motor vehicle was at least \$400.00 as certified by the state revenue commissioner.

(B) Such title ad valorem tax fees shall be an alternative ad valorem tax as authorized by Article VII, Section I, Paragraph III(b)(3) of the Georgia Constitution.

(12) A loaner vehicle shall not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section for a period of time not to exceed six months in a calendar year commencing on the date such loaner vehicle is withdrawn temporarily from inventory. Immediately upon the expiration of such six-month period, if the dealer does not return the loaner vehicle to inventory for resale, the dealer shall be responsible for remitting state and local title ad valorem tax fees in the same manner as otherwise required of an owner under paragraph (9) of this subsection and shall be subject to the same penalties and interest as an owner for noncompliance with the requirements of paragraph (9) of this subsection.

(13) Any motor vehicle which is donated to a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of being transferred to another person shall, when titled in the name of such nonprofit organization, not be subject to state and local title ad valorem tax fees under paragraph (1) of subsection (b) of this Code section but shall be subject to state and local title ad valorem tax fees otherwise applicable to salvage titles under paragraph (2) of subsection (b) of this Code section.

(e) The fair market value of any motor vehicle subject to this Code section shall be appealable in the same manner as otherwise authorized for a motor vehicle subject to ad valorem taxation under Code Section 48-5-450.

(f) Beginning in 2014, on or before January 31 of each year, the department shall provide a report to the chairpersons of the House Committee on Ways and Means and the Senate Finance Committee showing the state and local title ad valorem tax fee revenues collected pursuant to this chapter and the motor vehicle ad valorem tax proceeds collected pursuant to Chapter 5 of this title during the preceding calendar year."

SECTION 1-5.

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use tax, by replacing "; or" with a semicolon at the end of paragraph (90), replacing the period at the end of paragraph (91) with "; or", and by adding a new paragraph to read as follows:

"(92) The sale or purchase of any motor vehicle titled in this state on or after March 1, 2013, pursuant to Code Section 48-5B-1. This exemption shall not apply to leases or rentals of motor vehicles or to those sales and use taxes collected pursuant to subsection (d) of Code Section 48-8-241."

PART II

SECTION 2-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (b) of Code Section 48-7-26, relating to personal exemptions from income taxes, as follows:

"(b)(1) An exemption of ~~\$5,400.00~~ \$7,400.00 shall be allowed as a deduction in computing Georgia taxable income of a taxpayer and spouse, but only if a joint return is filed. If a taxpayer and spouse file separate returns, \$3,700.00 shall be allowed to each person as a deduction in computing Georgia taxable income.

(2) An exemption of \$2,700.00 shall be allowed as a deduction in computing Georgia taxable income for ~~each taxpayer other than a taxpayer who files a joint return~~ all taxpayers other than taxpayers who qualify for the exemption provided for in paragraph (1) of this subsection.

~~(3)(A) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, an exemption of \$2,000.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer.~~

~~(B) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1998, an exemption of \$2,500.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer.~~

~~(C) For taxable years beginning on or after January 1, 1998, an exemption of \$2,700.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer.~~

~~(4)~~(3) Commencing with the taxable year beginning January 1, 2003, an exemption of \$3,000.00 for each dependent of a taxpayer shall be allowed as a deduction in computing Georgia taxable income of the taxpayer."

SECTION 2-2.

Said title is further amended by revising paragraph (5) of subsection (a) of Code Section 48-7-27, relating to the computation of taxable net income, as follows:

"(5)(A) Retirement income otherwise included in Georgia taxable net income shall be subject to an exclusion amount as follows:

(i) For taxable years beginning on or after January 1, 1989, and prior to January 1, 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year received from any source;

(ii) For taxable years beginning on or after January 1, 1990, and prior to January 1, 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year received from any source;

(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1, 1995, retirement income from any source not to exceed an exclusion amount of \$11,000.00;

(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1, 1999, retirement income from any source not to exceed an exclusion amount of \$12,000.00;

(v) For taxable years beginning on or after January 1, 1999, and prior to January 1, 2000, retirement income from any source not to exceed an exclusion amount of \$13,000.00;

(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1, 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year received from any source;

(vii) For taxable years beginning on or after January 1, 2001, and prior to January 1, 2002, retirement income from any source not to exceed an exclusion amount of \$14,000.00;

(viii) For taxable years beginning on or after January 1, 2002, and prior to January 1, 2003, retirement income from any source not to exceed an exclusion amount of \$14,500.00;

(ix) For taxable years beginning on or after January 1, 2003, and prior to January 1, 2006, retirement income from any source not to exceed an exclusion amount of \$15,000.00;

(x) For taxable years beginning on or after January 1, 2006, and prior to January 1, 2007, retirement income from any source not to exceed an exclusion amount of \$25,000.00;

(xi) For taxable years beginning on or after January 1, 2007, and prior to January 1, 2008, retirement income from any source not to exceed an exclusion amount of \$30,000.00;

(xii) For taxable years beginning on or after January 1, 2008, and prior to January 1, 2012, retirement income from any source not to exceed an exclusion amount of \$35,000.00; and

(xiii) For taxable years beginning on or after January 1, 2012, ~~and prior to January 1, 2013,~~ retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$65,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;

~~(xiv) For taxable years beginning on or after January 1, 2013, and prior to January 1, 2014, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$100,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;~~

~~(xv) For taxable years beginning on or after January 1, 2014, and prior to January 1, 2015, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$150,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;~~

~~(xvi) For taxable years beginning on or after January 1, 2015, and prior to January 1, 2016, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an amount of \$200,000.00 for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph; and~~

~~(xvii) For taxable years beginning on or after January 1, 2016, retirement income from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D) of this paragraph or an exclusion of all retirement income from any source for each taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph.~~

(B) In the case of a married couple filing jointly, each spouse shall if otherwise qualified be individually entitled to exclude retirement income received by that spouse up to the exclusion amount.

(C) The exclusions provided for in this paragraph shall not apply to or affect and shall be in addition to those adjustments to net income provided for under any other paragraph of this subsection.

(D) A taxpayer shall be eligible for the exclusions granted by this paragraph only if the taxpayer:

(i) Is 62 years of age or older but less than 65 years of age during any part of the taxable year; or

(ii) Is permanently and totally disabled in that the taxpayer has a medically demonstrable disability which is permanent and which renders the taxpayer incapable of performing any gainful occupation within the taxpayer's competence; or

(iii) Is 65 years of age or older during any part of the year.

(E) For the purposes of this paragraph, retirement income shall include but not be limited to interest income, dividend income, net income from rental property, capital gains income, income from royalties, income from pensions and annuities, and no more than \$4,000.00 of an individual's earned income. Earned income in excess of \$4,000.00, including but not limited to net business income earned by an individual from any trade or business carried on by such individual, wages, salaries, tips, and other employer compensation, shall not be regarded as retirement income. The receipt of earned income shall not diminish any taxpayer's eligibility for the retirement income exclusions allowed by this paragraph except to the extent of the express limitation provided in this subparagraph.

(F) The commissioner shall by regulation require proof of the eligibility of the taxpayer for the exclusions allowed by this paragraph.

(G) The commissioner shall by regulation provide that for taxable years beginning on or after January 1, 1989, and ending before October 1, 1990, penalty and interest may be waived or reduced for any taxpayer whose estimated tax payments and tax withholdings are less than 70 percent of such taxpayer's Georgia income tax liability if the commissioner determines that such underpayment or deficiency is due to an increase in net taxable income attributable directly to amendments to this paragraph or paragraph (4) of this subsection enacted at the 1989 special session of the General Assembly and not due to willful neglect or fraud;"

PART III

SECTION 3-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-7-29.12, relating to tax credits for qualified donation of real property, carryover of credit, appraisals, transfer of credit, and penalty, as follows:

"48-7-29.12.

(a) As used in this Code section, the term:

(1) 'Conservation easement' means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which are consistent with at least two conservation purposes.

(2) 'Conservation purpose' means any of the following:

(A) Water quality protection for wetlands, rivers, streams, or lakes;

(B) Protection of wildlife habitat consistent with state wildlife conservation policies;

(C) Protection of outdoor recreation consistent with state outdoor recreation policies;

(D) Protection of prime agricultural or forestry lands; and

(E) Protection of cultural sites, heritage corridors, or archeological and historic resources.

(3) 'Donated property' means the real property of which a qualified donation is made pursuant to this Code section.

(4) 'Eligible donor' means any person who owns an interest in a qualified donation.

(5) 'Fair market value' means the value of the donated property established by a property appraisal or appraisals meeting the requirements of Section 170 of Title 26 of the United States Code, to be submitted in such manner as the commissioner may by regulation require as determined pursuant to subsections (c.1) and (c.2) of this Code section.

~~(2)~~(6) 'Qualified donation' means the fee simple conveyance to the state; a county, a municipality, or a consolidated government of this state; to the federal government; or a bona fide charitable nonprofit organization qualified under the Internal Revenue Code and, beginning on January 1, 2014, accredited by the Land Trust Accreditation Commission of 100 percent of all right, title, and interest in the entire parcel of donated real property, which and the donation is accepted by such state, county, municipality, consolidated government, federal government, or bona fide charitable nonprofit organization for use in a manner consistent with at least two conservation purposes. Such term shall also include the donation to and acceptance by the state; a county, a municipality, or a consolidated government of this state; to the federal government; or a bona fide charitable nonprofit organization qualified under the Internal Revenue Code and, beginning on January 1, 2014, accredited by the Land Trust Accreditation Commission of an interest in real property which qualifies as a conservation easement under paragraph (4) of Code Section 12-6A-2. Any real property which is otherwise required to be dedicated pursuant to local government regulations or ordinances or to increase building density levels shall not be eligible as a qualified donation under this Code section. Any real property which is used for or associated with the playing of golf or is planned to be so used or associated shall not be eligible as a qualified donation under this Code section.

~~(3) 'Eligible donor' means any person who owns an interest in a qualified donation.~~

~~(4)~~(7) 'Related person' has the meaning provided by Code Section 48-7-28.3.

~~(5)~~(8) 'Substantial valuation misstatement' means a valuation such that the claimed value of any property claimed on any return of tax imposed under this chapter, or on any claim for refund of such tax, on the appraisal as submitted to the State Properties Commission is 150 percent or more of the amount determined to be the correct amount of such valuation pursuant to subsections (c.1) and (c.2) of this Code section.

(b)(1) A taxpayer shall be allowed a state income tax credit against the tax imposed by Code Section 48-7-20 or Code Section 48-7-21 for each qualified donation ~~of real property for conservation purposes~~ under this Code section.

(2) Except as otherwise provided in paragraph (3) of this subsection and in subsection (d) of this Code section, such credit shall be limited to an amount not to exceed the lesser of \$500,000.00, 25 percent of the fair market value of the donated real property as fair market value is established for the year in which the donation occurred, or 25 percent of the difference between the fair market value and the amount paid to the donor if the donation is effected by a sale of property for less than fair market value as established for the year in which the donation occurred.

(3) Except as otherwise provided in subsection (d) of this Code section, in the case of a taxpayer whose net income is determined under Code Section 48-7-23, the aggregate total credit allowed to all partners in a partnership shall be limited to an amount not to exceed the lesser of ~~\$1 million~~ \$500,000.00, 25 percent of the fair market value of the donated real property as fair market value is established for the year in which the donation occurred, or 25 percent of the difference between the fair market value and the amount paid to the donor if the donation is effected by a sale of property for less than fair market value as established for the year in which the donation occurred.

(c) No tax credit shall be allowed under this Code section unless the taxpayer files with the taxpayer's income tax return a copy of the State Property Commission's determination and a copy of a certification issued by the Department of Natural Resources that the donated property is suitable for conservation purposes: and meets the following additional requirements, where applicable:

(1) Subdivision is prohibited for a donated property of less than 500 acres and limited to one subdivision for a donated property of 500 acres or more;

(2) New construction on donated property of structures, roads, impoundments, ditches, dumping, or any other activity that would harm the protected conservation values of such donation is prohibited on such property;

(3) New construction on donated property within 150 feet of any perennial or intermittent stream is prohibited;

(4) A buffer of at least 100 feet on each side of any perennial streams on donated property which ensures at least 75 percent tree canopy evenly distributed after harvest is maintained and a buffer of at least 50 feet on each side of any intermittent streams on donated property which ensures at least 75 percent tree canopy evenly distributed after harvest is maintained;

(5) Timber and agricultural activities undertaken on the donated property are prohibited unless in accordance with best management practices published by the State Forestry Commission or the Soil and Water Conservation Commission, as the case may be;

(6) New construction on donated property causing more than 1 percent of such property's total surface area to be covered by impervious surfaces is prohibited;

(7) Mining on the property is prohibited; and

(8) Planting on the donated property of non-native invasive species listed in Category 1, Category 1 Alert, or Category 2 of the 'List of Non-Native Invasive Plants in Georgia' developed by the Georgia Exotic Pest Council is prohibited.

~~The Board of Natural Resources shall promulgate any rules and regulations necessary to implement and administer this subsection, including, but not limited to, policies to guide the determination of whether or not donated property is suitable for conservation purposes. A final determination by the Department of Natural Resources with respect to the suitability of donated property for conservation purposes shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~

(c.1) For each application for certification, the Department of Natural Resources shall require submission of an appraisal of the qualified donation by the taxpayer along with a nonrefundable \$5,000.00 application fee; provided, however, that the nonrefundable application fee for property donated to the state shall be 1 percent of the total value of the donation, unless such donation is being made to qualify the state for a federal or state grant.

The appraisal required by this subsection shall be a full narrative appraisal and include:

(1) A certification page, as established by the Uniform Standards of Professional Appraisal Practice, signed by the appraiser; and

(2) An affidavit signed by the appraiser which includes a statement specifying:

(A) The value of the unencumbered property, the total value of the qualified donation in gross, and an accompanying statement identifying the methods used to determine such values;

(B) Whether a subdivision analysis was used in the appraisal;

(C) Whether the landowner or related persons own any other property, the value of which is increased as a result of the donation; and

(D) That the appraiser is certified pursuant to Chapter 39A of Title 43.

Appraisals received by the Department of Natural Resources shall be forwarded to the State Properties Commission for review. The State Properties Commission shall approve the appraisal amount submitted or recommend a lower amount based on its review and inform the Department of Natural Resources of its determination. The State Properties Commission shall be authorized to promulgate any rules and regulations necessary to administer the provisions of this subsection. Any appraisal deemed to contain a substantial

valuation misstatement shall be submitted to the Georgia Real Estate Commission for further investigation and disciplinary action. Upon receipt of the State Properties Commission's determination, the Department of Natural Resources may proceed with the certification process.

(c.2) The Board of Natural Resources shall promulgate any rules and regulations necessary to implement and administer subsections (c) and (c.1) of this Code section. A final determination by the Department of Natural Resources or the State Properties Commission shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(d)(1) In no event shall the total amount of any tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. In no event shall the total amount of the tax credit allowed to a taxpayer under subsection (b) of this Code section exceed \$250,000.00 with respect to tax liability determined under Code Section 48-7-20 or \$500,000.00 with respect to tax liability determined under Code Section 48-7-21. Any unused tax credit shall be allowed to be carried forward to apply to the taxpayer's succeeding ten years' tax liability. However, the amount in excess of such annual dollar limits shall not be eligible for carryover to the taxpayer's succeeding years' tax liability nor shall such excess amount be claimed by or reallocated to any other taxpayer. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(2) Only one qualified donation may be made with respect to any real property that was, in the ~~year~~ five years prior to donation, within the same tax parcel of record, except that a subsequent donation may be made by a person who is not a related person with respect to any prior eligible donors of any portion of such tax parcel.

(d.1) Any tax credits under this Code section earned by a taxpayer in the taxable years beginning on or after January 1, 2013, and previously claimed but not used by such taxpayer against such taxpayer's income tax may be transferred or sold in whole or in part by such taxpayer to another Georgia taxpayer, subject to the following conditions:

(1) The transferor may make only a single transfer or sale of tax credits earned in a taxable year; however, the transfer or sale may involve one or more transferees;

~~(1)~~(2) The transferor shall submit to the department a written notification of any transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits. The notification shall include such transferor's tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for each transferee, the date of transfer, the amount transferred, and any other information required by the department;

~~(2)~~(3) Failure to comply with this subsection shall result in the disallowance of the tax credit until the taxpayer is in full compliance;

~~(3)(4)~~ In no event shall the amount of the tax credit under this subsection claimed and allowed for a taxable year exceed the transferee's income tax liability. Any unused credit may be carried forward to subsequent taxable years provided that the transfer or sale of this tax credit does not extend the time in which such tax credit can be used. The carry-forward period for tax credit that is transferred or sold shall begin on the date on which the tax credit was originally earned; and

~~(4)(5)~~ A transferee shall have only such rights to claim and use the tax credit that were available to the transferor at the time of the transfer. To the extent that such transferor did not have rights to claim and use the tax credit at the time of the transfer, the department shall either disallow the tax credit claimed by the transferee or recapture the tax credit from the transferee. The transferee's recourse is against the transferor.

(e)(1) Whenever:

(A) Any person prepares an appraisal of the value of property and knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund claiming a tax credit under this Code section; and

(B) The claimed value of the property ~~on a return or claim for refund which is based~~ on such appraisal as submitted to the State Properties Commission results in a substantial valuation misstatement with respect to such property for purposes of claiming a tax credit under this Code section,

then such person shall pay a penalty in the amount determined under paragraph (2) of this subsection.

(2) The amount of the penalty imposed under paragraph (1) of this subsection on any person with respect to an appraisal shall be equal to the lesser of:

(A) The greater of:

(i) Twenty-five percent of the difference between the amount of the tax credit claimed on the taxpayer's return or claim for refund and the amount of the tax credit to which the taxpayer is actually entitled, to the extent the difference is attributable to the misstatement described in ~~subparagraph (e)(1)(B) of this Code section~~ paragraph (1) of this subsection; or

(ii) ~~One~~ Ten thousand dollars; or

(B) One hundred twenty-five percent of the gross income received by the person described in ~~subparagraph (e)(1)(A) of this Code section~~ paragraph (1) of this subsection for the preparation of the appraisal.

(3) No penalty shall be imposed under paragraph (1) of this subsection if the person establishes to the satisfaction of the commissioner that the value established in the appraisal was more likely than not the proper value.

(4) Except as otherwise provided, the penalty provided by this subsection shall be in addition to any other penalties provided by law. The amount of any penalty under this subsection shall be assessed within three years after the return or claim for refund with respect to which the penalty is assessed was filed, and no proceeding in court without assessment for the collection of such penalty shall be begun after the expiration of such period. Any claim for refund of an overpayment of the penalty assessed under this subsection shall be filed within three years from the time the penalty was paid.

(f) No credit shall be allowed under this Code section with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution.

(g) The commissioner shall promulgate any rules and regulations necessary to implement and administer this Code section."

SECTION 3-2.

Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by adding a new subsection to Code Section 44-10-3, relating to the creation or alteration of conservation easements, as follows:

"(f) No county, municipality, or consolidated government shall hold a conservation easement unless the encumbered real property lies at least partly within the jurisdictional boundaries of such county, municipality, or consolidated government."

PART IV

SECTION 4-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising paragraph (73) of Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

~~"(73)(A) The sale or lease of production equipment or production services for use in this state by a certified film producer or certified film production company for qualified production activities.~~

~~(B) As used in this paragraph, the term:~~

~~(i) 'Film producer' means any person engaged in the business of organizing and supervising qualified production activities.~~

~~(ii) 'Film production company' means any company that employs one or more film producers and whose goal is to engage in film production activity.~~

~~(iii) 'Production equipment' means items purchased or leased for use exclusively in qualified production activities in Georgia, including, but not limited to, cameras, camera supplies, camera accessories, lighting equipment, cables, wires, generators, motion picture film and videotape stock, cranes, booms, dollies, and teleprompters.~~

(iv) ~~'Production services' means services purchased for use exclusively in qualified production activities in Georgia, including, but not limited to, digital or tape editing, film processing, transfers of film to tape or digital format, sound mixing, computer graphics services, special effects services, animation services, and script production.~~

(v) ~~'Qualified production activities' means the production or post production of film or video projects such as feature films, series, pilots, movies for television, commercials, music videos, or sound recordings used in feature films, series, pilots, or movies for television, for which the film producer or film production company will be compensated and which are intended for nation-wide commercial distribution.~~

~~(C) Any person making a sale of production equipment or production services to a film producer or film production company as specified in this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes such seller with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the production equipment or production services without paying the tax. As a condition precedent to the issuance of the certificate, film producers and film production companies shall submit an application to the commissioner for designation as a certified film producer or certified film production company. Such application shall not be valid without prior written approval by the Georgia Film and Videotape Office of the Department of Economic Development Reserved,"~~

PART V

SECTION 5-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising paragraphs (25), (26), (27), (28), (29), (29.1), (34), (34.3), (35), (37), (49), (64), (77), (79), and (90) of Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

~~"(25) The sale of seed, fertilizers, insecticides, fungicides, rodenticides, herbicides, defoliants, soil fumigants, plant growth regulating chemicals, desiccants, including, but not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay, and feed for livestock, fish, or poultry when used either directly in tilling the soil or in animal, fish, or poultry husbandry Reserved;~~

~~(26) The sale to persons engaged primarily in producing farm crops for sale of machinery and equipment which is used exclusively for irrigation of farm crops including, but not limited to, fruit, vegetable, and nut crops Reserved;~~

~~(27) The sale of sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees when the commissioner's prior approval is obtained Reserved;~~

(28) ~~The sale of cattle, hogs, sheep, horses, poultry, or bees when sold for breeding purposes~~ Reserved;

(29) ~~The sale of the following types of agricultural machinery:~~

~~(A) Machinery and equipment for use on a farm in the production of poultry and eggs for sale;~~

~~(B) Machinery and equipment used in the hatching and breeding of poultry and the breeding of livestock;~~

~~(C) Machinery and equipment for use on a farm in the production, processing, and storage of fluid milk for sale;~~

~~(D) Machinery and equipment for use on a farm in the production of livestock for sale;~~

~~(E) Machinery and equipment which is used by a producer of poultry, eggs, fluid milk, or livestock for sale for the purpose of harvesting farm crops to be used on the farm by that producer as feed for poultry or livestock;~~

~~(F) Machinery which is used directly in tilling the soil or in animal husbandry when the machinery is incorporated for the first time into a new farm unit engaged in tilling the soil or in animal husbandry in this state;~~

~~(G) Machinery which is used directly in tilling the soil or in animal husbandry when the machinery is incorporated as additional machinery for the first time into an existing farm unit already engaged in tilling the soil or in animal husbandry in this state;~~

~~(H) Machinery which is used directly in tilling the soil or in animal husbandry when the machinery is bought to replace machinery in an existing farm unit already engaged in tilling the soil or in animal husbandry in this state;~~

~~(I) Rubber-tired farm tractors and attachments to the tractors which are sold to persons engaged primarily in producing farm crops for sale and which are used exclusively in tilling, planting, cultivating, and harvesting farm crops, and equipment used exclusively in harvesting farm crops or in processing onion crops which are sold to persons engaged primarily in producing farm crops for sale. For the purposes of this subparagraph, the term 'farm crops' includes only those crops which are planted and harvested within a 12 month period; and~~

~~(J) Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans which is sold to persons engaged in the growing, harvesting, and production of pecans~~

Reserved;

(29.1) ~~The sale or use of any off-road equipment and related attachments which are sold to or used by persons engaged primarily in the growing or harvesting of timber and which are used exclusively in site preparation, planting, cultivating, or harvesting timber. Equipment used in harvesting shall include all off-road equipment and related attachments used in every forestry procedure starting with the severing of a tree from the~~

ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. Such off-road equipment shall include, but not be limited to, skidders, feller bunchers, debarkers, delimbers, chip harvesters, tub-grinders, woods cutters, chippers of all types, loaders of all types, dozers, and motor graders and the related attachments Reserved;"

"(34) The sale of the following types of manufacturing machinery:

(A) Machinery or equipment which is necessary and integral to the manufacture of tangible personal property when the machinery or equipment is bought to replace or upgrade machinery or equipment in a manufacturing plant presently existing in this state and machinery or equipment components which are purchased to upgrade machinery or equipment which is necessary and integral to the manufacture of tangible personal property in a manufacturing plant;

(B) Machinery or equipment which is necessary and integral to the manufacture of tangible personal property when the machinery or equipment is used for the first time in a new manufacturing plant located in this state;

(C) Machinery or equipment which is necessary and integral to the manufacture of tangible personal property when the machinery or equipment is used as additional machinery or equipment for the first time in a manufacturing plant presently existing in this state; and

(D) Any person making a sale of machinery or equipment for the purpose specified in subparagraph (B) of this paragraph shall collect the tax imposed on the sale by this article unless the purchaser furnishes him with a certificate issued by the commissioner certifying that the purchaser is entitled to purchase the machinery or equipment without paying the tax. As a condition precedent to the issuance of the certificate, the commissioner, at the commissioner's discretion, may require a good and valid bond with a surety company authorized to do business in this state as surety or may require legal securities, in an amount fixed by the commissioner, conditioned upon payment by the purchaser of all taxes due under this article in the event it should be determined that the sale fails to meet the requirements of this subparagraph

Reserved;"

"(34.3)(A) The sale or use of repair or replacement parts, machinery clothing or replacement machinery clothing, molds or replacement molds, dies or replacement dies, waxes, and tooling or replacement tooling for machinery which is necessary and integral to the manufacture of tangible personal property in a manufacturing plant presently existing in this state.

(B) The commissioner shall promulgate rules and regulations to implement and administer this paragraph

1076 Reserved;"

1077 ~~"(35)(A) The sale, use, storage, or consumption of:~~

1078 ~~(i) Industrial materials for future processing, manufacture, or conversion into articles~~
 1079 ~~of tangible personal property for resale when the industrial materials become a~~
 1080 ~~component part of the finished product;~~

1081 ~~(ii) Industrial materials other than machinery and machinery repair parts that are~~
 1082 ~~coated upon or impregnated into the product at any stage of its processing,~~
 1083 ~~manufacture, or conversion; or~~

1084 ~~(iii) Materials, containers, labels, sacks, or bags used for packaging tangible personal~~
 1085 ~~property for shipment or sale. To qualify for the packaging exemption, the items shall~~
 1086 ~~be used solely for packaging and shall not be purchased for reuse;~~

1087 ~~(B) As used in this paragraph, the term 'industrial materials' does not include natural~~
 1088 ~~or artificial gas, oil, gasoline, electricity, solid fuel, ice, or other materials used for heat,~~
 1089 ~~light, power, or refrigeration in any phase of the manufacturing, processing, or~~
 1090 ~~converting process~~

1091 Reserved;"

1092 ~~"(37) The sale of machinery and equipment for use in combating air and water pollution~~
 1093 ~~and any industrial material bought for further processing in the manufacture of tangible~~
 1094 ~~personal property for sale or any part of the industrial material or by-product thereof~~
 1095 ~~which becomes a wasteful product contributing to pollution problems and which is used~~
 1096 ~~up in a recycling or burning process. Any person making a sale of machinery and~~
 1097 ~~equipment for the purposes specified in this paragraph shall collect a tax imposed on the~~
 1098 ~~sale by this article unless the purchaser furnishes the person making the sale with a~~
 1099 ~~certificate issued by the commissioner certifying that the purchaser is entitled to purchase~~
 1100 ~~the machinery, equipment, or industrial material without paying the tax~~ Reserved;"

1101 ~~"(49) Sales of liquefied petroleum gas or other fuel used in a structure in which broilers,~~
 1102 ~~pullets, or other poultry are raised~~ Reserved;"

1103 ~~"(64) The sale of electricity or other fuel for the operation of an irrigation system which~~
 1104 ~~is used on a farm exclusively for the irrigation of crops~~ Reserved;"

1105 ~~"(77) Sales of liquefied petroleum gas or other fuel used in a structure in which plants,~~
 1106 ~~seedlings, nursery stock, or floral products are raised primarily for the purposes of~~
 1107 ~~making sales of such plants, seedlings, nursery stock, or floral products for resale~~
 1108 Reserved;"

1109 ~~"(79) The sale or use of ice for chilling poultry or vegetables in processing for market~~
 1110 ~~and for chilling poultry or vegetables in storage rooms, compartments, or delivery trucks~~
 1111 Reserved;"

~~"(90) The sale of electricity to a manufacturer located in this state used directly in the manufacture of a product if the direct cost of such electricity exceeds 50 percent of the cost of all materials, including electricity, used directly in the product Reserved; or"~~

SECTION 5-2.

Said title is further amended by adding a new Code section to read as follows:

"48-8-3.2.

(a) As used in this Code section, the term:

(1) 'Consumable supplies' means tangible personal property, other than machinery, equipment, and industrial materials, that is consumed or expended during the manufacture of tangible personal property. The term includes, but is not limited to, water treatment chemicals for use in, on, or in conjunction with machinery or equipment and items that are readily disposable. The term excludes packaging supplies and energy.

(2) 'Energy' means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood, waste, ice, steam, water, and other materials necessary and integral for heat, light, power, refrigeration, climate control, processing, or any other use in any phase of the manufacture of tangible personal property. The term excludes energy purchased by a manufacturer that is primarily engaged in producing electricity for resale.

(3) 'Equipment' means tangible personal property, other than machinery, industrial materials, and consumable supplies. The term includes durable devices and apparatuses that are generally designed for long-term continuous or repetitive use. Examples of equipment include, but are not limited to, machinery clothing, cones, cores, pallets, hand tools, tooling, molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution control devices. The term includes components and repair or replacement parts. The term excludes real property.

(4) 'Fixtures' means tangible personal property that has been installed or attached to land or to any building thereon and that is intended to remain permanently in its place. A consideration for whether tangible property is a fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. Fixtures are classified as real property. Examples of fixtures include, but are not limited to, plumbing, lighting fixtures, slabs, and foundations.

(5) 'Industrial materials' means materials for future processing, manufacture, or conversion into articles of tangible personal property for resale when the industrial materials become a component part of the finished product. The term also means materials that are coated upon or impregnated into the product at any stage of its processing, manufacture, or conversion, even though such materials do not remain a component part of the finished product for sale. The term includes raw materials.

(6) 'Local sales and use tax' means any sales tax, use tax, or local sales and use tax which is levied and imposed in an area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; and by or pursuant to any article of this chapter.

(7) 'Machinery' means an assemblage of parts that transmits force, motion, and energy one to the other in a predetermined manner to accomplish a specific objective. The term includes a machine and all of its components, including, but not limited to, belts, pulleys, shafts, gauges, gaskets, valves, hoses, pipes, wires, blades, bearings, operational structures attached to the machine, including stairways and catwalks, or other devices that are required to regulate or control the machine, allow access to the machine, or enhance or alter its productivity or functionality. The term includes repair or replacement parts. The term excludes real property and consumable supplies.

(8) 'Machinery clothing' means felts, screen plates, wires, or any other items used to carry, form, or dry work in process through the manufacture of tangible personal property.

(9) 'Manufacture of tangible personal property,' used synonymously with the term 'manufacturing,' means a manufacturing operation, series of continuous manufacturing operations, or series of integrated manufacturing operations engaged in at a manufacturing plant or among manufacturing plants to change, process, transform, or convert industrial materials by physical or chemical means into articles of tangible personal property for sale, for promotional use, or for further manufacturing that have a different form, configuration, utility, composition, or character. The term includes, but is not limited to, the storage, preparation, or treatment of industrial materials; assembly of finished units of tangible personal property to form a new unit or units of tangible personal property; movement of industrial materials and work in process from one manufacturing operation to another; temporary storage between two points in a continuous manufacturing operation; random and sample testing that occurs at a manufacturing plant; and a packaging operation that occurs at a manufacturing plant.

(10) 'Manufacturer' means a person or business, or a location of a person or business, that is engaged in the manufacture of tangible personal property for sale or further manufacturing. To be considered a manufacturer, the person or business, or the location of a person or business, must be:

(A) Classified as a manufacturer under the 2007 North American Industrial Classification System Sectors 21, 31, 32, or 33, or North American Industrial Classification System industry code 22111 or specific code 511110; or

(B) Generally regarded as being a manufacturer.

Businesses that are primarily engaged in providing personal or professional services or in the operation of retail outlets, generally including, but not limited to, grocery stores, pharmacies, bakeries, or restaurants, are not considered manufacturers.

(11) 'Manufacturing plant' means any facility, site, or other area where a manufacturer engages in the manufacture of tangible personal property.

(12) 'Packaging operation' means bagging, boxing, crating, canning, containerizing, cutting, measuring, weighing, wrapping, labeling, palletizing, or other similar processes necessary to prepare or package manufactured products in a manner suitable for sale or delivery to customers as finished goods or suitable for the transport of work in process at or among manufacturing plants for further manufacturing, and the movement of such finished goods or work in process to a storage or distribution area at a manufacturing plant.

(13) 'Packaging supplies' means materials, including, but not limited to, containers, labels, sacks, boxes, wraps, fillers, cones, cores, pallets, or bags, used in a packaging operation solely for packaging tangible personal property.

(14) 'Real property' means land, any buildings thereon, and any fixtures attached thereto.

(15) 'Repair or replacement part' means a part for any machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Repair or replacement parts must be used to maintain, repair, restore, install, or upgrade such machinery or equipment that is necessary and integral to the manufacture of tangible personal property. Examples of repair and replacement parts may include, but are not limited to, oils, greases, hydraulic fluids, coolants, lubricants, machinery clothing, molds, dies, waxes, jigs, and other interchangeable tooling.

(16) 'Substantial purpose' means the purpose for which an item of tangible personal property is used more than one-third of the time of the total amount of time that the item is in use; alternatively, instead of time, the purpose may be measured in terms of other applicable criteria, including, but not limited to, the number of items produced.

(b) The sale, use, or storage of machinery or equipment which is necessary and integral to the manufacture of tangible personal property and the sale, use, storage, or consumption of industrial materials or packaging supplies shall be exempt from all sales and use taxation.

(c)(1) Except as otherwise provided in paragraph (4) of this subsection, the sale, use, storage, or consumption of energy which is necessary and integral to the manufacture of tangible personal property at a manufacturing plant in this state shall be exempt from all sales and use taxation except for the sales and use tax for educational purposes levied pursuant to Part 2 of Article 3 of this chapter and Article VIII, Section VI, Paragraph IV

of the Constitution and except for local sales and use taxes for educational purposes authorized by or pursuant to local constitutional amendment. This exemption shall be phased in over a four-year period as follows:

(A) For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 25 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 25 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy;

(B) For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 50 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 50 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy;

(C) For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such sale, use, storage, or consumption of energy shall be exempt from an amount equal to 75 percent of the total amount of state sales and use tax that would be collected at the rate of 4 percent on such sale, use, storage, or consumption of energy and shall be exempt from an amount equal to 75 percent of the total amount of each local sales and use tax that would be collected at the rate of 1 percent on such sale, use, storage, or consumption of energy; and

(D) On or after January 1, 2016, such sale, use, storage, or consumption of energy shall be fully exempt from such sales and use taxation.

(2)(A) Any person making a sale of items qualifying for exemption under paragraph (1) of this subsection shall be relieved of the burden of proving such qualification if the person making the sale receives a certificate from the purchaser certifying that the purchase is exempt under this subsection.

(B) Any person who qualifies for the exemption under paragraph (1) of this subsection shall notify and certify to the person making the qualified sale that such exemption is applicable to the sale.

(3) With respect to services which are regularly billed on a monthly basis, the exemption under paragraph (1) of this subsection shall become effective with respect to and the exemption shall apply to services billed on or after the effective date of this Code section.

(4) If a competitive project of regional significance under paragraph (92) of Code Section 48-8-3 is started in a county or municipality, it shall not be subject to the phase-in period contained in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, but such project shall receive the full exemption provided for in subparagraph (D) of paragraph (1) of this subsection notwithstanding the January 1, 2016, limitation in that subparagraph.

(d) The exemptions under this Code section shall be applied as follows:

(1) The manufacture of tangible personal property commences as industrial materials are received at a manufacturing plant and concludes once the packaging operation is complete and the tangible personal property is ready for sale or shipment, regardless of whether the manufacture of tangible personal property occurs at one or more separate manufacturing plants;

(2) For machinery or equipment that has multiple purposes, some purposes necessary and integral to the manufacture of tangible personal property and some purposes not necessary and integral to the manufacture of tangible personal property, the substantial purpose of such machinery or equipment will prevail for purposes of determining the eligibility for exemption. The commissioner shall consider any reasonable methodology for measuring the substantial purpose of machinery or equipment for which the substantial purpose is not readily identifiable;

(3) For leased machinery or equipment that did not qualify for an exemption at the date of lease inception and subsequently qualifies for the exemption under this Code section, the exemption shall apply to all lease payments made subsequent to such qualification;

(4) Miscellaneous spare parts for which the ultimate use of the spare parts is unknown at the time of purchase are eligible for the exemption as repair or replacement parts. However, use tax must be accrued and remitted if spare parts are withdrawn from the inventory of spare parts and used for any purpose other than to maintain, repair, restore, install, or upgrade machinery or equipment that is necessary and integral to the manufacture of tangible personal property; and

(5) Energy necessary and integral to the manufacture of tangible personal property includes energy used to operate machinery or equipment, to create conditions necessary for the manufacture of tangible personal property, or to perform an actual part of the manufacture of tangible personal property; energy used in administrative or other ancillary activities that are located and performed at the manufacturing plant so long as such activities primarily benefit such manufacture of tangible personal property; energy used in related operations that convey, transport, handle, or store raw materials or finished goods at the manufacturing plant; energy used for heating, cooling, ventilation, illumination, fire safety or prevention, and personal comfort and convenience of the

1295 manufacturer's employees at the manufacturing plant; and energy used for any other
 1296 purpose at a manufacturing plant.

1297 (e) Examples that qualify as necessary and integral to the manufacture of tangible personal
 1298 property include, but are not limited to:

1299 (1) Machinery or equipment used to convey or transport industrial materials, work in
 1300 process, consumable supplies, or packaging materials at or among manufacturing plants
 1301 or to convey and transport finished goods to a distribution or storage point at the
 1302 manufacturing plant. Specific examples may include, but are not limited to, forklifts,
 1303 conveyors, cranes, hoists, and pallet jacks;

1304 (2) Machinery or equipment used to gather, arrange, sort, mix, measure, blend, heat,
 1305 cool, clean, or otherwise treat, prepare, or store industrial materials for further
 1306 manufacturing;

1307 (3) Machinery or equipment used to control, regulate, heat, cool, or produce energy for
 1308 other machinery or equipment that is necessary and integral to the manufacture of
 1309 tangible personal property. Specific examples may include, but are not limited to,
 1310 boilers, chillers, condensers, water towers, dehumidifiers, humidifiers, heat exchangers,
 1311 generators, transformers, motor control centers, solar panels, air dryers, and air
 1312 compressors;

1313 (4) Testing and quality control machinery or equipment located at a manufacturing plant
 1314 used to test the quality of industrial materials, work in process, or finished goods;

1315 (5) Starters, switches, circuit breakers, transformers, wiring, piping, and other electrical
 1316 components, including associated cable trays, conduit, and insulation, located between
 1317 a motor control center and exempt machinery or equipment or between separate units of
 1318 exempt machinery or equipment;

1319 (6) Machinery or equipment used to maintain, clean, or repair exempt machinery or
 1320 equipment;

1321 (7) Machinery or equipment used to provide safety for the employees working at a
 1322 manufacturing plant, including, but not limited to, safety machinery and equipment
 1323 required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard
 1324 hats or helmets, or breathing apparatuses, regardless of whether the items would
 1325 otherwise be considered consumable supplies;

1326 (8) Machinery or equipment used to condition air or water to produce conditions
 1327 necessary for the manufacture of tangible personal property, including pollution control
 1328 machinery or equipment and water treatment systems;

1329 (9) Pollution control, sanitizing, sterilizing, or recycling machinery or equipment;

1330 (10) Industrial materials bought for further processing in the manufacture of tangible
 1331 personal property for sale or further processing or any part of the industrial material or

by-product thereof which becomes a wasteful product contributing to pollution problems and which is used up in a recycling or burning process;

(11) Machinery or equipment used in quarrying and mining activities, including blasting, extraction, and crushing; and

(12) Energy used at a manufacturing plant."

SECTION 5-3.

Said title is further amended by adding a new Code section to read as follows:

"48-8-3.3.

(a) As used in this Code section, the term:

(1)(A) 'Agricultural machinery and equipment' means machinery and equipment used in the production of agricultural products, including, but not limited to, machinery and equipment used in the production of poultry and eggs for sale, including, but not limited to, equipment used in the cleaning or maintenance of poultry houses and the surrounding premises; in hatching and breeding of poultry and the breeding of livestock and equine; in production, processing, and storage of fluid milk for sale; in drying, ripening, cooking, further processing, or storage of agricultural products, including, but not limited to, orchard crops; in production of livestock and equine for sale; by a producer of poultry, eggs, fluid milk, equine, or livestock for sale; for the purpose of harvesting agricultural products to be used on the farm by that producer as feed for poultry, equine, or livestock; directly in tilling the soil or in animal husbandry when the machinery is incorporated for the first time or as additional machinery for the first time into a new or an existing farm unit engaged in tilling the soil or in animal husbandry in this state; directly in tilling the soil or in animal husbandry when the machinery is bought to replace machinery in an existing farm unit already engaged in tilling the soil or in animal husbandry in this state; machinery and equipment used exclusively for irrigation of agricultural products, including, but not limited to, fruit, vegetable, and nut crops; and machinery and equipment used to cool agricultural products in storage facilities.

(B) 'Agricultural machinery and equipment' also means farm tractors and attachments to the tractors; off-road vehicles used primarily in the production of nursery and horticultural crops; self-propelled fertilizer or chemical application equipment sold to persons engaged primarily in producing agricultural products for sale and which are used exclusively in tilling, planting, cultivating, and harvesting agricultural products, including, but not limited to, growing, harvesting, or processing onions, peaches, blackberries, blueberries, or other orchard crops, nursery, and other horticultural crops; devices and containers used in the transport and shipment of agricultural products;

aircraft exclusively used for spraying agricultural crops; pecan sprayers, pecan shakers, and other equipment used in harvesting pecans sold to persons engaged in the growing, harvesting, and production of pecans; and off-road equipment and related attachments which are sold to or used by persons engaged primarily in the growing or harvesting of timber and which are used exclusively in site preparation, planting, cultivating, or harvesting timber. Equipment used in harvesting shall include all off-road equipment and related attachments used in every forestry procedure starting with the severing of a tree from the ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. Such off-road equipment shall include, but not be limited to, skidders, feller bunchers, debarkers, delimbers, chip harvesters, tub-grinders, woods cutters, chippers of all types, loaders of all types, dozers, mid-motor graders, and the related attachments; grain bins and attachments to grain bins; any repair, replacement, or component parts installed on agricultural machinery and equipment; trailers used to transport agricultural products; all-terrain vehicles and multipassenger rough-terrain vehicles; and any other off-road vehicles used directly and principally in the production of agricultural or horticultural products.

(2) 'Agricultural operations' or 'agricultural products' means raising, growing, harvesting, or storing of crops; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, Christmas trees, fowl, equine, or animals; or the production of aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products. Agricultural products are considered grown in this state if such products are grown, produced, or processed in this state, whether or not such products are composed of constituent products grown or produced outside this state.

(3) 'Agricultural production inputs' means seed; seedlings; plants grown from seed, cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and instruments used for the administration of such drugs; fencing products and materials used to produce agricultural products; fungicides; rodenticides; herbicides; defoliants; soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes; ice or other refrigerants, including, but not limited to, nitrogen, carbon dioxide, ammonia,

and propylene glycol used in the processing for market or the chilling of agricultural products in storage facilities, rooms, compartments, or delivery trucks; materials, containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural products when the product is either sold in the containers, sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale of the product for resale; and containers, plastic, canvas, and other fabrics used in the care and raising of agricultural products or canvas used in covering feed bins, silos, greenhouses, and other similar storage structures.

(4) 'Energy used in agriculture' means fuels used for agricultural purposes, including, but not limited to, off-road diesel, propane, butane, electricity, natural gas, wood, wood products, or wood by-products; liquefied petroleum gas or other fuel used in structures in which broilers, pullets, or other poultry are raised, in which swine are raised, in which dairy animals are raised or milked or where dairy products are stored on a farm, in which agricultural products are stored, and in which plants, seedlings, nursery stock, or floral products are raised primarily for the purposes of making sales of such plants, seedlings, nursery stock, or floral products for resale; electricity or other fuel for the operation of an irrigation system which is used on a farm exclusively for the irrigation of agricultural products; and electricity or other fuel used in the drying, cooking, or further processing of raw agricultural products, including, but not limited to, food processing of raw agricultural products.

(5) 'Qualified agriculture producer' includes producers of agricultural products who meet one of the following criteria:

(A) The person or entity is the owner or lessee of agricultural land or other real property from which \$2,500.00 or more of agricultural products were produced and sold during the year, including payments from government sources;

(B) The person or entity is in the business of providing for-hire custom agricultural services, including, but not limited to, plowing, planting, harvesting, growing, animal husbandry or the maintenance of livestock, raising or substantially modifying agricultural products, or the maintenance of agricultural land from which \$2,500.00 or more of such services were provided during the year;

(C) The person or entity is the owner of land that qualifies for taxation under the qualifications of bona fide conservation use property as defined in Code Section 48-5-7.4 or qualifies for taxation under the provisions of the Georgia Forest Land Protection Act as defined in Code Section 48-5-7.7;

(D) The person or entity is in the business of producing long-term agricultural products from which there might not be annual income, including, but not limited to, timber, pulpwood, orchard crops, pecans, and horticultural or other multiyear agricultural or

farm products. Applicants must demonstrate that sufficient volumes of such long-term agricultural products will be produced which have the capacity to generate at least \$2,500.00 in sales annually in the future; or

(E) The person or entity must establish, to the satisfaction of the Commissioner of Agriculture, that the person or entity is actively engaged in the production of agricultural products and has or will have created sufficient volumes to generate at least \$2,500.00 in sales annually.

(b) The sales and use taxes levied or imposed by this article shall not apply to sales to, or use by, a qualified agriculture producer of agricultural production inputs, energy used in agriculture, and agricultural machinery and equipment.

(c) The Commissioner of Agriculture, at his or her discretion, may use one or both of the following criteria as a tool to determine eligibility under this Code section:

(1) Business activity on IRS schedule F (Profit or Loss from Farming); or

(2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or schedule E (Supplemental Income and Loss).

(d) Qualified agricultural producers that meet the criteria provided for in paragraph (5) of subsection (a) of this Code section must apply to the Commissioner of Agriculture to request an agricultural sales and use tax exemption certificate that contains an exemption number. To facilitate the use of the exemption certificate, a wallet-sized card containing that same information shall also be issued by the Commissioner of Agriculture.

(e) The Commissioner of Agriculture is authorized to promulgate rules and regulations governing the issuance of agricultural exemption certificates and the administration of this Code section. The Commissioner of Agriculture is authorized to establish an oversight board and direct staff and is authorized to charge annual fees of not less than \$15.00 nor more than \$25.00 per year in accordance with Code Section 2-1-5, but in no event shall the total amount of the proceeds from such fees exceed the cost of administering this Code section."

SECTION 5-4.

Said title is further amended by adding a new article at the end of Chapter 13, relating to specific, business, and occupation taxes, to read as follows:

"ARTICLE 6

48-13-110.

As used in this article, the term:

(1) 'Dealer' has the same meaning as in Code Section 48-8-2.

(2) 'Energy' has the same meaning as in Code Section 48-8-3.2.

(3) 'Local sales and use tax' means any of the following:

(A) The county special purpose local option sales and use tax under Part 1 of Article 3 of Chapter 8 of this title;

(B) The joint county and municipal sales and use tax under Article 2 of Chapter 8 of this title;

(C) The homestead option sales and use tax under Article 2A of Chapter 8 of this title;

(D) The tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Ga. L. 1964, p. 1008; the

continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional amendment; or

(E) The water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of this title.

(4) 'Purchaser' means any person who purchases energy and who would have been liable for sales and use tax on such energy but for the exemption provided for in Code Section 48-8-3.2.

48-13-111.

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution, there are created within this state 159 special districts. One such district shall exist within the geographical boundaries of each county, and the territory of each district shall include all of the territory within the county except territory located within the boundaries of any municipality that imposes an excise tax on energy under this article.

48-13-112.

(a)(1) Within the territorial limits of the special district located within the county, each county in this state may levy and collect an excise tax upon the sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of this title but for the exemption in Code Section 48-8-3.2.

(2) The governing authority of each municipality in this state may, subject to the conditions of Code Section 48-13-115, levy and collect an excise tax upon the sale or use of energy when such sale or use would have constituted a taxable event for purposes of sales and use tax under Article 1 of Chapter 8 of this title but for the exemption in Code Section 48-8-3.2.

(3) The excise tax levied pursuant to this article shall be phased in over a four-year period as follows:

(A) For the period commencing January 1, 2013, and concluding at the last moment of December 31, 2013, such excise tax shall be at a rate equivalent to 25 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2;

(B) For the period commencing January 1, 2014, and concluding at the last moment of December 31, 2014, such excise tax shall be at a rate equivalent to 50 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2;

(C) For the period commencing January 1, 2015, and concluding at the last moment of December 31, 2015, such excise tax shall be at a rate equivalent to 75 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2; and

(D) On or after January 1, 2016, such excise tax shall be at a rate equivalent to 100 percent of the total amount of local sales and use tax in effect in such special district that would be collected on the sale, use, storage, or consumption of energy but for the exemption in Code Section 48-8-3.2.

(b) Any county or municipality which imposes the excise tax under this article during the phase-in period provided for in this Code section shall levy such excise tax at the amount provided for under the applicable year of the phase in. Any county or municipality which imposes such excise tax on or after January 1, 2016, shall impose it at the rate specified under subparagraph (a)(3)(D) of this Code section.

(c) The excise tax levied pursuant to this article shall be imposed only at the time that sales and use tax on the sale or use of such energy would have been due and payable under Code Section 48-8-30 but for the exemption in Code Section 48-8-3.2. The excise tax shall be due and payable in the same manner as would be otherwise required under Article 1 of Chapter 8 of this title except as otherwise provided under this article. The excise tax shall be a debt of the purchaser of energy until it is paid and shall be recoverable at law in the same manner as authorized for the recovery of other debts. The dealer collecting the excise tax shall remit the excise tax to the governing authority imposing the excise tax. Every dealer subject to an excise tax levied as provided in this article shall be liable for the excise tax at the applicable rate on the charges actually collected or the amount of excise taxes collected from the purchasers, whichever is greater.

(d) A county or municipality levying an excise tax as provided in this subsection shall only levy such excise tax initially by ordinance and at the equivalent rate as determined under

paragraph (3) of subsection (a) of this Code section. Following such initial imposition, on or after January 1, 2016, the rate of the tax under this article shall be controlled by the maximum amount of local sales and use tax in effect in the special district, but in no event more than 2 percent; however, this 2 percent limitation shall not apply in a municipality that levies a water and sewer projects and costs tax pursuant to Article 4 of Chapter 8 of this title, in which case there shall be a 3 percent limitation. In the event the total rate of local sales and use taxes in effect in the special district decreases from 2 percent to 1 percent, the rate of the excise tax under this article shall likewise be reduced at the same time such local sales and use tax rate reduction becomes effective. In the event the total rate of local sales and use taxes in effect in the special district increases from 1 percent to 2 percent, the rate of the excise tax under this article shall likewise be increased at the same time such local sales and use tax rate increase becomes effective.

(e) An excise tax under this article shall not be levied or collected by a county or municipality outside the territorial limits of the special district located within the county.

48-13-113.

Prior to the adoption of the ordinance levying an excise tax under this article, the county governing authority within a special district shall meet and confer with each of the municipalities within the special district. Any county that desires to have an excise tax under this article levied within the special district shall deliver or mail a written notice to the mayor or chief elected official in each municipality located within the special district. If the governing authority of such county does not deliver or mail such notice within 30 days of the date of the written request of the mayor or chief elected official of a municipality within the special district, then such mayor or chief elected official shall deliver or mail a written notice to the mayor or chief elected official in each municipality located within the special district and to the county governing authority. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each municipality are to discuss whether or not the excise tax should levied be within the special district. The notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the adoption of any ordinance levying an excise tax under this article.

48-13-114.

(a)(1) Following the meeting required under Code Section 48-13-113, the governing authority of the county within the special district shall enter into an intergovernmental agreement with the governing authority of each municipality wishing to participate in such excise tax that provides for the distribution of the proceeds as provided in subsection

(c) of this Code section. Following the execution of such agreement, the governing authority of such county shall be authorized to adopt an ordinance levying the excise tax.

(2) If a municipality elects not to participate in such excise tax by not signing such agreement, then such municipality shall not receive any proceeds from the excise tax. In such event, any proportionate share that would have been distributed to such municipality under an applicable local sales and use tax as provided in subsection (c) of this Code section shall instead be distributed to the general fund of the county.

(b) The excise tax proceeds shall be allocated and distributed by the county governing authority at the end of each calendar month. Of such excise tax proceeds, an amount equal to 1 percent of the proceeds collected by the county shall be paid into the general fund of the county to defray the costs of collection and administration. The remainder of the proceeds shall be distributed in accordance with the intergovernmental agreement as provided in subsection (c) of this Code section.

(c) The excise tax proceeds shall be allocated and distributed by the county governing authority within 30 days following the end of each calendar month in the manner provided in this subsection. Such proceeds shall not be subject to any use or expenditure requirements provided for under any of the local sales and use taxes but shall be authorized to be expended in the same manner as otherwise would have been required under such local sales and use taxes or may be expended for any lawful purpose. Of such excise tax proceeds:

(1) If two such local sales and use taxes are in effect in the special district, an amount equal to one-half of the proceeds of the excise tax shall be distributed to the county general fund and the general fund of each participating municipality located in such county according to the same proportionate share as specified under the distribution provisions of the first local sales and use tax and an amount equal to one-half of the proceeds of the excise tax shall be distributed to the county general fund and the general fund of each participating municipality located in such county according to the same proportionate share as specified under the distribution provisions of the second local sales and use tax; or

(2) If only one such local sales and use tax is in effect in the special district, then the proceeds of the excise tax shall be distributed to the county general fund and the general fund of each participating municipality located in such county according to the same proportionate share as specified under the distribution provisions of the local sales and use tax.

48-13-115.

Following the meeting required under Code Section 48-13-113, if the governing authority of the county within the special district refuses to enter into an intergovernmental agreement with the governing authority of each municipality wishing to participate in such excise tax during the period commencing on January 1, 2013, and concluding on December 31, 2013, then the governing authority of each municipality wishing to levy the excise tax shall be authorized to adopt an ordinance levying the excise tax within the corporate limits of such municipality. If a county elects not to participate in such excise tax by not signing such agreement, then the county shall not receive any proceeds from the excise tax. The proceeds of such excise tax shall be deposited in the general fund of each municipality. If a county determines, subsequent to December 31, 2013, to commence proceedings for the imposition of the excise tax under this article, then proceedings for such imposition shall commence in the same manner as otherwise provided under Code Section 48-13-113. In that event, the excise tax levied by such municipality shall cease on the day immediately prior to the day the new tax levied by the county commences. If such municipality elects not to participate, its current excise tax under this article shall still terminate on the date specified in this Code section and it shall not receive any proceeds under the county levy.

48-13-116.

(a)(1) An excise tax imposed under this article shall become effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption date of the ordinance.

(2) If services are regularly billed on a monthly basis, however, the excise tax shall become effective with respect to and the tax shall apply to services billed on or after the effective date specified in paragraph (1) of this subsection.

(b) The excise tax shall cease to be imposed on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption date of an ordinance terminating the excise tax.

(c) At any time no more than a single 2 percent excise tax under this article may be imposed within a special district or a municipality.

(d) Following the termination of an excise tax under this article, the governing authority of a county within a special district or the mayor or chief elected official of a municipality in the special district in which an excise tax authorized by this article is in effect may initiate proceedings for the reimposition of a tax under this article in the same manner as provided in this article for initial imposition of such tax.

48-13-117.

The manner of payment and collection of the excise tax and all other procedures related to the tax, including, but not limited to, periodic auditing of dealers collecting and remitting the excise tax under this article, shall be as provided by each county and municipality electing to exercise the powers conferred by this article.

48-13-118.

As a part of the audit report required under Code Section 36-81-7, the auditor shall include, in a separate schedule, a report of the revenues pertaining to the excise tax under this article."

SECTION 5-5.

Said title is further amended by revising paragraphs (90) and (91) and enacting a new paragraph in Code Section 48-8-3, relating to exemptions from sales and use tax, as follows:

"(90) The sale of electricity to a manufacturer located in this state used directly in the manufacture of a product if the direct cost of such electricity exceeds 50 percent of the cost of all materials, including electricity, used directly in the product; ~~or~~

(91) The sale of prewritten software which has been delivered to the purchaser electronically or by means of load and leave; or

(92)(A) For the period commencing January 1, 2012, until June 30, 2014, sales of tangible personal property used for and in the construction of a competitive project of regional significance.

(B) The exemption provided in subparagraph (A) of this paragraph shall apply to purchases made during the entire time of construction of the competitive project of regional significance so long as such project meets the definition of a 'competitive project of regional significance' within the period commencing January 1, 2012, until June 30, 2014.

(C) The department shall not be required to pay interest on any refund claims filed for local sales and use taxes paid on purchases made prior to the implementation of this paragraph.

(D) As used in this paragraph, the term 'competitive project of regional significance' means the location or expansion of some or all of a business enterprise's operations in this state where the commissioner of economic development determines that the project would have a significant regional impact. The commissioner of economic development shall promulgate regulations in accordance with the provisions of this paragraph outlining the guidelines to be applied in making such determination."

SECTION 5-6.

Said title is further amended by revising paragraph (33.1) of Code Section 48-8-3, relating to exemptions from sales and use taxes, as follows:

"(33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport, to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B)(i) For the period of time beginning July 1, 2011, and ending June 30, 2012, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from state sales and use tax until the aggregate state sales and use tax liability of the taxpayer during such period with respect to jet fuel exceeds \$20 million, computed as if the exemption provided in this division was not in effect during such period. Thereafter during such period, the exemption provided by this division shall not apply to the sale or use of jet fuel to or by the qualifying airline. For purposes of this division, the terms 'qualifying airline' and 'qualifying airport' shall have the same meanings as those terms were defined under the prior provisions of this paragraph as it existed immediately prior to July 1, 2012.

(ii) For the period of time beginning July 1, 2012, ~~and ending June 30, 2013,~~ the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from 1 percent of the 4 percent state sales and use tax ~~until the aggregate state sales and use tax liability of the taxpayer during such period with respect to jet fuel exceeds \$10 million, computed as if the exemption provided in this division was not in effect during such period.~~ Thereafter during such period, the sale or use of jet fuel to or by the qualifying airline shall be subject to state sales and use tax.

~~(iii) The exemptions provided in divisions (i) and (ii) of this subparagraph shall not apply to any purchases of jet fuel occurring on or after July 1, 2013.~~

(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt at all times from the sales or use tax levied and imposed as authorized pursuant to Part 1 of Article 3 of this chapter. For purposes of this subparagraph, a 'qualifying airport' shall mean any airport in the state that has had more than 750,000 takeoffs and landings during a calendar year; and a 'qualifying airline,' in addition to the requirements of subparagraph (E) of this paragraph, shall mean, for the 12 month period immediately preceding the applicable period specified in division (i) of subparagraph (B) of this paragraph had, or would have had in the absence of any exemption during such 12 month period, state sales and use tax liability on jet fuel of more than \$15 million.

(D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall not apply to any other local sales and use tax levied or imposed at ~~anytime~~ any time in any area consisting of less than the entire state, however authorized, including, but not

limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article 3 or Article 2, 2A, or 4 of this chapter.

(E) For purposes of ~~this paragraph~~ division (ii) of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, a 'qualifying airline' shall mean any person which: ~~(i) Is~~ is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire; ~~and,~~

~~(ii) For the 12 month period immediately preceding the applicable period specified in division (i) or (ii) of subparagraph (B) of this paragraph had, or would have had in the absence of any exemption during such 12 month period, state sales and use tax liability on jet fuel of more than \$15 million.~~

(F) ~~For purposes of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, a 'qualifying airport' shall mean any airport in the state that has had more than 750,000 takeoffs and landings during a calendar year.~~ For purposes of division (ii) of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, the term 'qualifying airport' means a certificated air carrier airport in Georgia.

(G) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;₂"

SECTION 5-7.

Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended by revising Code Section 2-1-5, relating to certain agricultural annual license fees, as follows:

"2-1-5.

(a) An individual conducting business as a grain dealer, commercial feed dealer, and grain warehouseman shall pay an annual license fee in an amount not less than \$1,500.00 nor more than \$3,000.00. Any fees collected pursuant to this Code section shall be retained pursuant to the provisions of Code Section 45-12-92.1.

(b) A qualified agriculture producer, as defined in Code Section 48-8-3.3, shall pay an annual license fee in an amount not less than \$15.00 nor more than \$25.00, but in no event shall the total amount of the proceeds from such fees exceed the cost of administering Code Section 48-8-3.3."

PART VI

SECTION 6-1.

Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, is amended by revising paragraph (8) of Code Section 48-8-2, relating to definitions regarding the state sales and use tax, as follows:

"(8) 'Dealer' means every person who:

(A) Has sold at retail, used, consumed, distributed, or stored for use or consumption in this state tangible personal property and who cannot prove that the tax levied by this article has been paid on the sale at retail or on the use, consumption, distribution, or storage of the tangible personal property;

(B) Imports or causes to be imported tangible personal property from any state or foreign country for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state;

(C) Is the lessee or renter of tangible personal property and who pays to the owner of the property a consideration for the use or possession of the property in this state without acquiring title to the property;

(D) Leases or rents tangible personal property for a consideration, permitting the use or possession of the property in this state without transferring title to the property;

(E) Maintains or ~~has~~ utilizes within this state, ~~indirectly or by a subsidiary,~~ an office, distribution center, salesroom or sales office, warehouse, service enterprise, or any other place of business, whether owned by such person or any other person, other than a common carrier acting in its capacity as such;

(F) Manufactures or produces tangible personal property for sale at retail or for use, consumption, distribution, or storage for use or consumption in this state;

(G) Sells at retail, offers for sale at retail, or has in his possession for sale at retail, or for use, consumption, distribution, or storage for use or consumption in this state tangible personal property;

(H) Solicits business by an agent, employee, representative, or any other person;

(I) Engages in the regular or systematic solicitation of a consumer market in this state, unless the dealer's only activity in this state is:

(i) Advertising or solicitation by:

(I) Direct mail, catalogs, periodicals, or advertising fliers;

(II) Means of print, radio, or television media; or

(III) Telephone, computer, the Internet, cable, microwave, or other communication system; ~~or~~

(ii) The delivery of tangible personal property within this state solely by common carrier or United States mail; or

(iii) To engage in convention and trade show activities as described in Section 513(d)(3)(A) of the Internal Revenue Code, so long as such activities are the dealer's sole physical presence in this state and the dealer, including any of its representatives, agents, salespersons, canvassers, independent contractors, or solicitors, does not engage in those convention and trade show activities for more than five days, in whole or in part, in this state during any 12 month period and did not derive more than \$100,000.00 of net income from those activities in this state during the prior calendar year. A retailer engaging in convention and trade show activities, as described in Section 513(d)(3)(A) of the Internal Revenue Code, is a retailer engaged in business in this state and liable for collection of the applicable sales or use tax with respect to any sale of tangible personal property occurring at the convention and trade show activities and with respect to any sale of tangible personal property made pursuant to an order taken at or during those convention and trade show activities.

The exceptions provided in divisions ~~(i) and (ii)~~ (i), (ii), and (iii) of this subparagraph shall not apply to any requirements under Code Section 48-8-14;

(J) Is an affiliate that sells at retail, offers for sale at retail in this state, or engages in the regular or systematic solicitation of a consumer market in this state through a related dealer located in this state unless:

(i) The in-state dealer to which the affiliate is related does not engage in any of the following activities on behalf of the affiliate:

(I) Advertising;

(II) Marketing;

(III) Sales; or

(IV) Other services; and

(ii) The in-state dealer to which the affiliate is related accepts the return of tangible personal property sold by the affiliate and also accepts the return of tangible personal property sold by any person or dealer that is not an affiliate on the same terms and conditions as an affiliate's return;

As used in this subparagraph, the term 'affiliate' means any person that is related directly or indirectly through one or more intermediaries, controls, is controlled by, is under common control with, or is subject to the control of a dealer described in subparagraphs (A) through (I) of this paragraph or in this subparagraph;

(K)(i) Makes sales of tangible personal property or services that are taxable under this chapter if a related member, as defined in Code Section 48-7-28.3, other than a common carrier acting in its capacity as such, that has substantial nexus in this state:

(I) Sells a similar line of products as the person and does so under the same or a similar business name; or

(II) Uses trademarks, service marks, or trade names in this state that are the same or substantially similar to those used by the person.

(ii) The presumption that a person described in this subparagraph qualifies as a dealer in this state may be rebutted by showing that the person does not have a physical presence in this state and that any in-state activities conducted on its behalf are not significantly associated with the person's ability to establish and maintain a market in this state;

(L)(i) Makes sales of tangible personal property or services that are taxable under this chapter if any other person, other than a common carrier acting in its capacity as such, who has a substantial nexus in this state:

(I) Delivers, installs, assembles, or performs maintenance services for the person's customers within this state;

(II) Facilitates the person's delivery of property to customers in this state by allowing the person's customers to pick up property sold by the person at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in this state; or

(III) Conducts any other activities in this state that are significantly associated with the person's ability to establish and maintain a market in this state for the person's sales.

(ii) The presumption that a person described in this subparagraph qualifies as a dealer in this state may be rebutted by showing that the person does not have a physical presence in this state and that any in-state activities conducted on its behalf are not significantly associated with the person's ability to establish and maintain a market in this state;

(M)(i) Enters into an agreement with one or more other persons who are residents of this state under which the resident, for a commission or other consideration, based on completed sales, directly or indirectly refers potential customers, whether by a link on an Internet website, an in-person oral presentation, telemarketing, or otherwise, to the person, if the cumulative gross receipts from sales by the person to customers in this state who are referred to the person by all residents with this type of an agreement with the person is in excess of \$50,000.00 during the preceding 12 months.

(ii) The presumption that a person described in this subparagraph is a dealer in this state may be rebutted by submitting proof that the residents with whom the person has an agreement did not engage in any activity within this state that was significantly associated with the person's ability to establish or maintain the person's market in the state during the preceding 12 months. Such proof may consist of sworn written statements from all of the residents with whom the person has an agreement stating

that they did not engage in any solicitation in this state on behalf of the person during the preceding year, provided that such statements were provided and obtained in good faith. This subparagraph shall take effect 90 days after the effective date of this Act and shall apply to sales made, uses occurring, and services rendered on or after the effective date of this subparagraph without regard to the date the person and the resident entered into the agreement described in this subparagraph;

(N) Notwithstanding any of the provisions contained in this paragraph, with respect to a person that is not a resident or domiciliary of Georgia, that does not engage in any other business or activity in Georgia, and that has contracted with a commercial printer for printing to be conducted in Georgia, such person shall not be deemed a 'dealer' in Georgia merely because such person:

- (i) Owns tangible or intangible property which is located at the Georgia premises of a commercial printer for use by such printer in performing services for the owner;
- (ii) Makes sales and distributions of printed material produced at and shipped or distributed from the Georgia premises of the commercial printer;
- (iii) Performs activities of any kind at the Georgia premises of the commercial printer which are directly related to the services provided by the commercial printer; or
- (iv) Has printing, including any printing related activities, and distribution related activities performed by the commercial printer in Georgia for or on its behalf,

nor shall such person, absent any contact with Georgia other than with or through the use of the commercial printer or the use of the United States Postal Service or a common carrier, have an obligation to collect sales or use tax from any of its customers located in Georgia based upon the activities described in divisions (i) through (iv) of this subparagraph. In no event described in this subparagraph shall such person be considered to have a fixed place of business in Georgia at either the commercial printer's premises or at any place where the commercial printer performs services on behalf of that person;

(O) Any ruling, agreement, or contract, whether written or oral and whether express or implied, between a person and this state's executive branch or any other state agency or department stating, agreeing, or ruling that such person is not a dealer required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or a related member shall be null and void unless it is specifically approved by a majority vote of each body of the General Assembly. For purposes of this subparagraph, the term 'related member' has the same meaning as in Code Section 48-7-28.3;

~~(L)~~(P) Each dealer shall collect the tax imposed by this article from the purchaser, lessee, or renter, as applicable, and no action seeking either legal or equitable relief on

a sale, lease, rental, or other transaction may be had in this state by the dealer unless the dealer has fully complied with this article; or
 (M)(Q) The commissioner shall promulgate such rules and regulations necessary to administer this paragraph, including other such information, applications, forms, or statements as the commissioner may reasonably require."

SECTION 6-2.

Said part is further amended by revising paragraphs (75) and (82) of Code Section 48-8-3, relating to exemptions from sales and use taxes, as follows:

"(75)(A) The sale of any covered item. The exemption provided by this paragraph shall apply only to sales occurring during a period commencing periods:

(i) Commencing at 12:01 A.M. on ~~July 30, 2009~~ August 10, 2012, and concluding at 12:00 Midnight on ~~August 2, 2009~~ August 11, 2012; and

(ii) Commencing at 12:01 A.M. on August 9, 2013, and concluding at 12:00 Midnight on August 10, 2013.

(B) As used in this paragraph, the term 'covered item' shall mean:

(i) Articles of clothing and footwear with a sales price of \$100.00 or less per article of clothing or pair of footwear, excluding accessories such as jewelry, handbags, umbrellas, eyewear, watches, and watchbands;

(ii) A single purchase, with a sales price ~~\$1,500.00~~ of \$1,000.00 or less, of personal computers and personal computer related accessories purchased for noncommercial home or personal use, including personal computer base units and keyboards, personal digital assistants, handheld computers, monitors, other peripheral devices, modems for Internet and network access, and nonrecreational software, whether or not they are to be utilized in association with the personal computer base unit. Computer and computer related accessories shall not include furniture and any systems, devices, software, or peripherals designed or intended primarily for recreational use; and

(iii) Noncommercial purchases of general school supplies to be utilized in the classroom or in classroom related activities, such as homework, up to a sales price of \$20.00 per item including pens, pencils, notebooks, paper, book bags, calculators, dictionaries, thesauruses, and children's books and books listed on approved school reading lists for pre-kindergarten through twelfth grade.

(C) The exemption provided by this paragraph shall not apply to rentals, sales in a theme park, entertainment complex, public lodging establishment, restaurant, or airport or to purchases for trade, business, or resale.

(D) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph including but not be limited to a list of those articles and items qualifying for the exemption pursuant to this paragraph;"

"(82)(A) Purchase of energy efficient products or water efficient products with a sales price of \$1,500.00 or less per product purchased for noncommercial home or personal use. The exemption provided by this paragraph shall apply only to sales occurring during ~~a period commencing~~ periods:

(i) Commencing at 12:01 A.M. on ~~October 1, 2009~~ October 5, 2012, and concluding at 12:00 Midnight on ~~October 4, 2009~~ October 7, 2012; and

(ii) Commencing at 12:01 A.M. on October 4, 2013, and concluding at 12:00 Midnight on October 6, 2013.

(B) As used in this paragraph, the term:

(i) 'Energy efficient product' means any energy efficient product for noncommercial home or personal use consisting of any dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb, dehumidifier, programmable thermostat, refrigerator, door, or window which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's energy saving efficiency requirements or which have been designated as meeting or exceeding such requirements under each such agency's Energy Star program.

(ii) 'Water efficient product' means any product used for the conservation or efficient use of water which has been designated by the United States Environmental Protection Agency as meeting or exceeding such agency's water saving efficiency requirements or which has been designated as meeting or exceeding such requirements under such agency's Water Sense program.

(C) The exemption provided for in subparagraph (A) of this paragraph shall not apply to purchases of energy efficient products or water efficient products purchased for trade, business, or resale.

(D) The commissioner shall promulgate any rules and regulations necessary to implement and administer this paragraph;"

PART VII

SECTION 7-1.

(a) This part, paragraph (4) of subsection (c) of Code Section 48-8-3.2 contained in Section 5-2, and Section 6-2 of this Act shall become effective upon approval by the Governor or upon becoming law without such approval.

(b) Section 5-5 of this Act shall become effective on January 1, 2012.

1974 (c) Section 6-1 of this Act shall become effective on October 1, 2012.

1975 (d) Part IV and Section 5-6 of this Act shall become effective on July 1, 2012.

1976 (e) Parts II and III of this Act shall become effective on January 1, 2013, and shall be
1977 applicable to all taxable years beginning on or after January 1, 2013.

1978 (f) Part I of this Act shall become effective March 1, 2013.

1979 (g) The remaining portions of this Act shall become effective on January 1, 2013.

1980 (h) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not
1981 be affected by the passage of this Act and shall continue to be governed by the provisions of
1982 general law as it existed immediately prior to the effective date of the relevant portion of this
1983 Act.

1984 (i) This Act shall not abate any prosecution, punishment, penalty, administrative proceedings
1985 or remedies, or civil action related to any violation of law committed prior to the effective
1986 date of the relevant portion of this Act.

1987 **SECTION 7-2.**

1988 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
1989 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
1990 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
1991 force and effect as if the section, subsection, sentence, clause, or phrase so declared or
1992 adjudged invalid or unconstitutional were not originally a part hereof. The General
1993 Assembly declares that it would have passed the remaining parts of this Act if it had known
1994 that such part or parts hereof would be declared or adjudged invalid or unconstitutional.

1995 **SECTION 7-3.**

1996 All laws and parts of laws in conflict with this Act are repealed.